



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on 12th December, 2011:—

### BILL NO. 110 OF 2011

A Bill to consolidate and amend the law relating to the scientific development and regulation of mines and minerals under the control of the Union.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

#### CHAPTER I

##### PRELIMINARY

1. (1) This Act may be called the Mines and Minerals (Development and Regulation) Act, 2011.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and mineral development to the extent hereinafter provided.

Declaration as  
to the  
expediency of  
Union control.

## Definitions.

3. In this Act, unless the context otherwise requires,—

(a) “atomic minerals” means the minerals specified in Part ‘B’ of the First Schedule;

(b) “Atomic Minerals Directorate” means the Atomic Minerals Directorate for Exploration and Research, Hyderabad, under the control of the Department of Atomic Energy, Central Government;

(c) “beach sand mineral” includes ilmenite, rutile, leucoxene minerals, and any other titanium bearing mineral that can be extracted from placer sand as specified in Part ‘C’ of the First Schedule;

(d) “cess” means,—

(i) a duty in the nature of duty of excise and customs levied and collected on major minerals by the Central Government; and

(ii) a duty on royalty levied and collected on major and minor minerals by the State Government, for the purposes of this Act;

(e) “Coal Controller” means the person appointed as such by the Central Government under the Coal Controller Organisation (Group ‘A’ Posts) Recruitment Rules, 1986 for the time being in force;

(f) “coal minerals” means the minerals specified in Part ‘A’ of the First Schedule;

(g) “detailed exploration” means a detailed three-dimensional delineation of a known deposit achieved through close spaced sampling, pitting, trenching and drilling in a grid, and includes an analysis of outcrops, trenches, boreholes, shafts and tunnels, so that the size, shape, structure, grade of the deposit are established with high degree of accuracy, in order to conduct a feasibility study;

(h) “feasibility study” means the report prepared by duly accredited agencies after conducting a study of a mineral deposit in accordance with the United Nations Framework Classification System, assessing in detail the technical soundness and economic viability of a mining project, including an audit of all geological, engineering, environmental, legal and economic information accumulated on the project;

(i) “forest area” means any area to which the provisions of the Forest (Conservation) Act, 1980, is applicable;

69 of 1980.

(j) “general exploration” means the process of initial delineation of an identified deposit in an area using surface mapping, wide spaced sampling, trenching and drilling for preliminary evaluation of mineral quantity and quality, including mineralogical tests on laboratory scale, and any indirect method of mineral investigation, in order to conduct a pre-feasibility study and further detailed exploration;

(k) “high technology reconnaissance-cum-exploration licence” means a licence granted under this Act for reconnaissance and prospecting, including general and detailed exploration;

(l) “licence” means the licence granted for the purposes of reconnaissance or prospecting or high technology reconnaissance-cum-exploration;

(m) “major minerals” means the minerals specified in the First Schedule;

(n) “mineral concession” means a reconnaissance licence, a high technology reconnaissance-cum-exploration licence, a prospecting licence, or a mining lease in respect of major minerals and minor minerals and includes quarrying permits and any other mineral concessions permitting the mining of minor minerals in accordance with such rules as may be made by the State Government in this behalf;

(o) “mining lease” means a lease granted by the competent authority for the purpose of undertaking mining operations, in accordance with the provisions of this Act, and in respect of minor minerals, shall include quarrying permits and other

mineral concessions permitting the mining of minor minerals, in accordance with such rules as may be made by the State Government;

(p) "minor minerals" means the minerals other than the major minerals specified in the First Schedule;

(q) "National Authority" means the National Mining Regulatory Authority established under section 58;

(r) "National Mining Tribunal" means the National Mining Tribunal established under section 75;

(s) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(t) "non-exclusive reconnaissance licence" means a licence to conduct a systematic study for identifying areas of enhanced mineral potential through reconnaissance on regional scale;

(u) "prescribed" means prescribed by rules made under this Act;

(v) "prospecting" means the systematic process of searching for a mineral deposit by narrowing down an area of promising enhanced mineral potential through outcrop identification, geological mapping, geophysical and geochemical studies, trenching, drilling, sampling, etc., in order to facilitate general and detailed exploration;

(w) "prospecting licence" means a licence granted under the provisions of this Act to conduct prospecting, general exploration and detailed exploration operations;

(x) "prospecting report" means a report containing all relevant information on a mineral in an area on the basis of results of prospecting, general exploration and detailed exploration giving details of ore bodies in terms of size, shape, grade, quantity of mineralisation and geological assessment represented by codes in the United Nations Framework Classification System, including baseline and geo-environmental study data;

(y) "reconnaissance" means a systematic study to identify areas of enhanced mineral potential on a regional scale based primarily on the results of regional geological, geophysical and geochemical studies through remote sensing, aerial and ground sampling surveys including, preliminary field inspections, in order to facilitate further investigation for deposit identification;

(z) "reconnaissance report" means a report containing all relevant information on mineral occurrences in an area of enhanced mineral potential on regional scale obtained through reconnaissance;

(za) "Schedules" means the Schedules appended to this Act;

(zb) "Special Courts" means the Special Courts constituted under section 105 of this Act;

(zc) "State Directorate" means the Directorate of Mining and Geology (by whatever name called) of the State Government headed by a Director (or any other designation of this nature) responsible for regulation of mining activities within the State;

(zd) "State Authority" means the State Mining Regulatory Authority established under section 70;

(ze) "State Mining Tribunal" means the State Mining Tribunal established under section 89;

(zf) "sustainable development framework" means the National sustainable development framework or a State sustainable development framework prepared in accordance with the provisions of section 46;

(zg) "United Nations Framework Classification" refers to the classification of mineral reserves or resources made by the United Nations Economic Commission for Europe and as may be adopted and notified by the Central Government for the purposes of this Act;

(zh) the expressions "agent", "manager", "mine" and "owner" shall have the meanings respectively assigned to them in the Mines Act, 1952.

35 of 1952.

## CHAPTER II

### GENERAL RESTRICTIONS ON MINERAL CONCESSIONS

Reconnaissance,  
prospecting  
and mining  
operations to  
be under  
licence.

4. (1) Save as otherwise provided in this Act, no person shall undertake any reconnaissance, prospecting, general exploration, detailed exploration or mining in respect of any major or minor minerals except under a non-exclusive reconnaissance licence, high-technology reconnaissance-cum-exploration licence, prospecting licence or mining lease in case of major minerals or any other mineral concession in case of minor minerals, as the case may be, granted in accordance with the provisions of this Act and the rules made thereunder:

Provided that nothing in this sub-section shall affect any reconnaissance, prospecting, general exploration, detailed exploration or mining operation undertaken in any area in accordance with the terms and conditions of a reconnaissance permit, prospecting licence or mining lease granted before the commencement of this Act.

(2) No licence shall be necessary in respect of reconnaissance or prospecting operations undertaken by the Geological Survey of India, the Atomic Minerals Directorate, the Mineral Exploration Corporation Limited, the Singareni Collieries Limited, the Neyveli Lignite Corporation Limited and the Central Mine Planning and Design Institute Limited being Government companies within the meaning of section 617 of the Companies Act, 1956 or the Directorate of Mining and Geology (by whatever name called) of any State Government and such other Government agencies as may be notified by the Central Government from time to time in respect of any land where rights on minerals vest in the State Government:

1 of 1956.

Provided that all such operations shall be notified by the State Government and may be undertaken for a period not exceeding three years in respect of reconnaissance and six years in respect of prospecting, as may be specified in such notification:

Provided further that no such reconnaissance or prospecting shall be undertaken in an area for which a licence or mining lease has been granted or for which application for a grant of licence or mining lease is pending.

*Explanation.*—For the purposes of this sub-section, in respect of the Mineral Exploration Corporation Limited, the Singareni Collieries Limited, the Neyveli Lignite Corporation Limited, the Central Mine Planning and Design Institute Limited and the other Government agencies as may be notified under this sub-section, the provisions of this sub-section shall apply with respect to promotional work undertaken on behalf of the Central Government or the State Government, as the case may be.

(3) No person shall be entitled to make any application for mineral concession in the area covered by the notification during the period specified in the notification issued under sub-section (2), and on expiry of the said period or such earlier period as may be notified by the State Government, the area shall be deemed to be available for grant of mineral concessions.

(4) In respect of land on which prospecting operations are conducted in accordance with the provisions of sub-section (2), before the expiry of the period specified in the notification issued by the State Government, the Central Government in case of coal minerals, and the State Government in case of all other minerals, may by notification, invite competitive offers for grant of concession under section 13 or may set aside the entire land or any portion of the land for a period not exceeding three years for grant of mineral concession under section 13 and no application for grant of any mineral concession shall lie during this period or on the expiry thereof, except in accordance with a notification issued under sub-section (1) or sub-section (4) of section 13 of this Act, as the case may be.



(5) Subject to the provisions of sub-section (6), no mineral concession shall be granted except on an application made to the State Government after the commencement of this Act and in accordance with the provisions thereof along with the application fee and earnest money, in such form and manner as may be prescribed.

*Explanation.*— For the removal of doubts, it is hereby clarified that applicants who made the applications before the commencement of this Act shall be required to make fresh applications under this Act, and no right [except as otherwise provided under sub-section (6)] shall accrue to such applicants under this Act by virtue of having made an application before such commencement.

(6) The provisions of sub-section (5) shall not be applicable in case of applications made in accordance with any law for the time being in force, before the commencement of this Act,—

(a) for grant of prospecting licence or a mining lease after completing exploration under a reconnaissance permit or a prospecting licence, as the case may be; or

(b) for which prior approval of the Central Government for grant of mineral concessions, has been given; or

(c) where a letter of intent (by whatever name called) has been issued by the State Government to grant reconnaissance permit or prospecting licence or mining lease, as the case may be, and was pending grant of the concession under this Act for fulfilment of the conditions of the letter of intent,

and the application for grant of the mineral concessions is pending with the State Government at the time of commencement of this Act.

(7) In case a person submits his application for grant of mineral concession in respect of major as well as minor minerals in the same area, the application shall be considered for all the minerals applied for in accordance with the provisions of this Act applicable to major minerals.

(8) No person shall transport or store, or cause to be transported or stored, any minerals otherwise than in accordance with the provisions of this Act and the rules made thereunder.

(9) An application for grant of mining lease for atomic minerals may be considered and granted by the State Government after obtaining prior approval of the Department of Atomic Energy in such cases and in such manner as may be prescribed by the Central Government:

Provided that no lease shall be necessary in respect of mining of atomic minerals undertaken by the Atomic Minerals Directorate or such other Government agencies as may be notified by the Central Government from time to time.

(10) In any reconnaissance or prospecting operations undertaken by the Geological Survey of India, the Atomic Minerals Directorate, the Mineral Exploration Corporation Limited, the Singareni Collieries Limited, the Neyveli Lignite Corporation Limited, the Central Mine Planning and Design Institute Limited and such other Government agencies, in accordance with the provisions of sub-section (2), such agency conducting the reconnaissance or prospecting operations shall publish, in such manner as may be prescribed by the Central Government, a report of the reconnaissance or prospecting operations and intimate the publication to the State Government in such manner as may be prescribed by the Central Government to enable the State Government to set aside the area under sub-section (4) or notify the area under section 13 for prospecting or mining, as the case may be:

Provided that where the State Government fails to take a decision to set aside the area or notify the area under section 13, it shall publish such data in its official website, that would be available to the general public in such manner as may be prescribed by the State Government.

Eligibility for  
grant of  
mineral  
concession.

5. (1) No person shall be eligible for grant of a mineral concession unless such person is a citizen of India or a company as defined in sub-section (1) of section 3 of the Companies Act, 1956, or a firm registered under the Indian Partnership Act, 1932 and has registered himself with the Indian Bureau of Mines or the State Directorate or any other agency authorised by a notification issued by the Central Government, in such manner, as may be prescribed by the Central Government: 1 of 19:  
9 of 19:

Provided that for the purposes of mineral concessions for small deposits in any area referred to in sub-section (6) of section 6, a co-operative society registered with the State Government under the law made by it and registered in accordance with the provisions of sub-section (2) shall be eligible for grant of such mineral concession:

Provided further that in respect of any concession or an application for grant or renewal of a mineral concession pending with the State Governments at the commencement of this Act in terms of sub-section (6) of section 4, the applicant of such application shall be given a reasonable opportunity to register with the Indian Bureau of Mines or the State Directorate, as the case may be, within such time as may be notified and such application shall not be rejected solely on the ground of non-registration with the Indian Bureau of Mines or the State Directorate, as the case may be.

*Explanation.*— For the purposes of this sub-section, the firm or association or co-operative shall be eligible where all the members of such firm or association or co-operative are citizens of India.

(2) Subject to any notification issued under sub-section (1), the registration process in respect of mineral concessions,—

- (a) for major minerals shall be administered by the Indian Bureau of Mines;
- (b) for minor minerals shall be administered by the State Directorate; and
- (c) for coal minerals shall be administered by the Central Government.

(3) No person shall be entitled to operate a mineral concession if he contravenes any of the provisions of this Act or the rules made thereunder, which renders him ineligible for grant of a mineral concession:

Provided that a person who is holding a mineral concession prior to the commencement of this Act shall not be deemed to be contravening the provisions of this Act and the rules made thereunder merely on account of the fact that the area of such concession is less than the mining area specified under section 6.

Maximum and  
minimum area  
of mineral  
concession.

6. (1) The maximum area which can be held under mineral concession at any time by a person in respect of any mineral or prescribed group of associated minerals in a State shall be,—

- (a) ten thousand square kilometres in respect of non-exclusive reconnaissance licences;
- (b) five thousand square kilometres in respect of high technology reconnaissance-cum-exploration licences;
- (c) five hundred square kilometres in respect of prospecting licences; and
- (d) one hundred square kilometres in respect of mining leases:

Provided that a high technology reconnaissance-cum-exploration licence shall be granted for such group of associated minerals (other than iron ore, bauxite, limestone, coal minerals or other bulk minerals) as may be prescribed by the Central Government, and subject to such general conditions regarding use of advanced technologies and methodologies as may be notified from time to time by the Central Government:

Provided further that in case of coal minerals, if the Central Government is of the opinion that in the interest of development of coal minerals, it is necessary so to do, it may, for reasons to be recorded in writing, permit any person to acquire one or more prospecting licence or mining lease covering an area in excess of the maximum area specified in sub-section (1).

(2) In respect of major minerals, the minimum area for grant of,—

(a) a high-technology reconnaissance-cum-exploration licence shall be one hundred square kilometres;

(b) a prospecting licence shall be one square kilometre; and

(c) a mining lease shall be ten hectares.

(3) In respect of minor minerals the minimum area for grant of,—

(a) a non-exclusive reconnaissance or a prospecting licence shall be ten hectares; and

(b) a mining lease shall be five hectares:

Provided that the State Government in consultation with the Ministry of Environment and Forest in the Central Government for reasons to be recorded in writing may, in respect of any area and any minor mineral, notify a minimum area other than the area specified in this sub-section.

*Explanation.*— For the purposes of sub-sections (1), (2) and (3), the area held by a person as a member of a co-operative society, company or other corporation and a Hindu undivided family and a partner of a firm or as an individual shall be jointly computed.

(4) Notwithstanding anything contained in sub-sections (2) and (3), a person holding a high-technology reconnaissance-cum-exploration licence, or a prospecting licence or a mining lease shall be entitled to be considered and granted a high-technology reconnaissance-cum-exploration licence or a prospecting licence, as the case may be, for the same minerals for an area lower than the minimum area referred to in sub-section (2) or sub-section (3), as the case may be, in an area contiguous to the area already held by him under the licence or lease, as the case may be.

(5) The holder of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, and prospecting licence shall surrender area out of such licence annually, as may be specified in the licence, in the manner prescribed by the Central Government so that at the end of the last year after the commencement of operations of the non-exclusive reconnaissance licence, the area held does not exceed the maximum eligibility of the licence holder for a prospecting licence and at the end of the last year of the high technology reconnaissance-cum-exploration licence or prospecting licence, the area held does not exceed the maximum eligibility of the licence holder for a mining lease in accordance with the provisions of sub-section (1).

(6) No mining lease shall be granted in respect of any area which is not compact and contiguous or otherwise not suitable to scientific development:

Provided that in respect of small deposits not suitable to scientific mining in isolated patches, a mining lease may be granted for a cluster of such deposits within a defined area of not less than the area specified in sub-section (2) or sub-section (3), as the case may be, in accordance with such procedure and subject to such conditions as may be prescribed by the Central Government.

(7) In case of the Scheduled area specified in the Fifth Schedule to the Constitution and the tribal area specified in the Sixth Schedule to the Constitution, the State Government may, by notification, give preference as may be specified in the notification in grant of mineral concessions on an area referred to in sub-section (6) to a co-operative of the Scheduled Tribes.

(8) Any rules made by the State Governments for minor minerals shall be in accordance with the provisions of sub-sections (1) to (7).

7. (1) A non-exclusive reconnaissance licence shall be granted for a period of not less than one year and not more than three years.

(2) A high technology reconnaissance-cum-exploration licence shall be granted for a period of not less than three years and not more than six years:

Period of grant and extension of licence and deposit of security.

Provided that the period may be extended, on an application made by the licensee for a further period not exceeding two years in respect of such part of the area as may be specified in the licence.

(3) A prospecting licence shall be granted for a period of not less than two years and not more than three years:

Provided that the period may be extended on an application made by the licensee for a further period not exceeding two years in respect of such part of area as may be specified in the licence.

(4) A mining lease for a major mineral shall be granted for a period of not less than twenty years and not more than thirty years:

Provided that in an area which is already held under a mining lease and a new mineral is found in such area, the period of mining lease granted for such new mineral shall be co-terminus with the period of the existing mining lease:

Provided further that in the interest of mineral development, amalgamation of two or more adjoining leases held by a lessee may be approved by the authority competent to grant the lease and the period of the amalgamated leases shall be co-terminus with the period of lease which expires later.

(5) A mining lease for a minor mineral shall be granted for a period not less than five years and may be extended for such period as may be notified by the State Government:

Provided that different periods may be specified for different minerals having regard to the nature and manner of occurrence of mineral deposits:

Provided further that in respect of any minor mineral, where a minimum area is notified in accordance with the provisions of sub-section (3) or sub-section (6) of section 6, the State Government may notify a minimum period of less than five years in consultation with the Central Government.

(6) A mining lease for a major mineral may be extended, on an application made by the lessee, in respect of such part of the area as may be specified and for such period not exceeding twenty years at a time, as may be required to ensure full exploitation of the run-of-the-mine in a scientific manner:

Provided that no such extension shall be granted, except after approval in the prescribed manner, of a fresh mining plan for the area for which the lease is sought to be extended.

(7) For the purposes of sub-section (6), all mining leases granted before the commencement of this Act, and which has not contravened any of the terms and conditions of a reconnaissance permit, prospecting licence or mining lease granted before the commencement of this Act, shall be considered for extension irrespective of the size of the area of such mining lease.

Grant and  
extension of  
mineral  
concession.

8. (1) In respect of any land in which the minerals vest in the Government (other than in respect of lands reserved under the provisions of Chapter VII), the State Government shall grant non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence and mining lease and extend the high technology reconnaissance exploration licence, prospecting licence and mining lease in accordance with the provisions of this Act and the rules made thereunder:

Provided that in respect of minor minerals, the State Government may, by notification, restrict the grant of licence to such types of mineral concessions as are appropriate having regard to the nature of occurrence of the minor mineral:

Provided further that a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence and mining lease in respect of coal minerals, atomic minerals and beach sand minerals shall be granted and extended by the State Government with the prior approval of the Central Government.

(2) Every person, granted a licence or lease, as the case may be, under sub-section (1), shall deposit such sum as security deposit as may be specified by the Central Government.

(3) A non-exclusive reconnaissance licence shall not be issued in respect of any area held under a high technology reconnaissance-cum-exploration licence or a prospecting licence or a mining lease.

(4) A prospecting licence shall not be issued in an area held under high technology reconnaissance-cum-exploration licence and *vice versa*.

(5) A high technology reconnaissance-cum-exploration licence or a prospecting licence shall not be issued in respect of an area held under a mining lease.

(6) A non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence or mining lease for coal minerals shall be granted by the State Government to a company approved by the Central Government on such terms and conditions as may be prescribed by it and such licence or lease be granted through competitive bidding and auction in such manner as may be prescribed by it:

Provided that the provisions of this sub-section shall not be applicable for grant of mineral concession,—

(a) to a Government company or corporation for mining or such other specified end use;

(b) to a company or corporation which has been awarded a power project (including Ultra Mega Power Project) on the basis of competitive bids for tariff.

(7) The reconnaissance licence, prospecting licence and mining lease (by whatever name called) in respect of any mineral underlying the ocean within the territorial waters or the continental shelf of India shall be granted by the Central Government in accordance with the provisions of any law for the time being in force.

(8) The State Government, and every holder of a mineral concession, shall make available data relating to grant, extension, relinquishment, termination and plan of operations in the official website in such manner as may be prescribed by the Central Government.

(9) For the purpose of this section, the onus of proving that ownership of a mineral vests in a person other than the State Government shall be on the person making the claim.

9. (1) Notwithstanding that a non-exclusive reconnaissance licensee is operating in such area, a high technology reconnaissance-cum-exploration licence, prospecting licence or a mining lease may be granted on that area under the provisions of this Act.

Prospecting licence and mining lease of an area under reconnaissance.

(2) A non-exclusive reconnaissance licence holder who applies for a prospecting licence under sub-section (7) of section 22 shall, on grant of such licence, be entitled to get such areas vacated as may have been granted a prospecting licence to any person under sub-section (1) subsequent to the grant of the reconnaissance licence:

Provided that a person holding a high technology reconnaissance-cum-exploration licence or a person holding a prospecting licence granted under sub-section (7) of section 22 or a person granted a mining lease shall not be required to vacate the area.

10. (1) Notwithstanding anything contained in this Act, the holder of a high technology reconnaissance-cum-exploration licence or a prospecting licence or mining lease for a mineral other than a minor mineral may also undertake incidental prospecting or mining operations in respect of atomic minerals in the area held, subject to the fulfilment of the following conditions, namely:—

Special provisions in respect of atomic minerals.

(a) if in the course of prospecting or mining operations, he discovers any atomic mineral, he shall within a period of sixty days from the date of discovery of such mineral, report the fact of such discovery to the Atomic Minerals Directorate, the Geological Survey of India, the Indian Bureau of Mines and the State Directorate of the State in which the prospecting or mining operations are carried on or proposed to be carried on;

(b) the quantities of atomic minerals recovered incidental to such prospecting or mining operations shall be collected and stacked separately and a report to that effect sent to the Atomic Minerals Directorate every three months for such further action to be taken by the licensee or lessee, as the case may be, which may be directed by the Atomic Minerals Directorate.

(2) The licensee or lessee, as the case may be, referred to in sub-section (1) shall, within a period of sixty days from the date of discovery of atomic mineral, apply to the Secretary, Department of Atomic Energy, Mumbai, along with the recommendations of the State Government, for grant of a licence or lease to handle the said atomic minerals in accordance with the provisions of the Atomic Energy (Radiation Protection) Rules, 2004 made under the Atomic Energy Act, 1962, and on grant of such licence or grant of lease to handle, the licensee or lessee, as the case may be, may apply for inclusion of such atomic minerals in his licence or lease, as the case may be: 33 of 1962.

Provided that if in the opinion of the Department of Atomic Energy, the atomic mineral recovered incidental to such prospecting or mining operations is not of an economically exploitable grade or the quantity found is insignificant, the licensee or lessee need not apply for inclusion of such atomic mineral in his licence or lease, as the case may be.

(3) In case of grant of a lease referred to in sub-section (2), the lessee shall remove and dispose off the atomic mineral on payment of royalty to the State Government.

(4) For obtaining a separate licence or lease for atomic minerals, the licensee or lessee, as the case may be, shall, within a period of sixty days from the date of discovery of atomic mineral, apply to the Secretary, Department of Atomic Energy, Mumbai, along with the recommendations of the State Government, for grant of licence to handle the said atomic mineral in terms of the Atomic Energy (Radiation Protection) Rules, 2004 made under the Atomic Energy Act, 1962 and no licence or lease be granted except in accordance with the conditions of such licence granted under the provisions of the Atomic Energy (Radiation Protection) Rules, 2004. 33 of 1962.

Mineral  
concession to  
be void if in  
contravention  
of Act.

11. (1) Any mineral concession granted, extended, held or acquired in contravention of the provisions of this Act or any rules or orders made thereunder, shall be void and of no effect, subject to the provisions of sub-section (2).

(2) Where a person has acquired more than one non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence or mining lease, as the case may be, and the aggregate area covered by such licences or leases in respect of a mineral in a State, as the case may be, exceeds the maximum area permissible under section 6, only that non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence or mining lease the acquisition of which has resulted in such maximum area being exceeded, shall be deemed to be void.

(3) In every case where a mineral concession is void under sub-section (1), the earnest money or security deposit as the case may be deposited in respect of that application shall stand forfeited, and the mineral concession shall be granted to the next eligible applicant or notified for grant of mineral concession, as the case may be, in accordance with the provisions of this Act.

Cancellation  
of a mineral  
concession or  
disqualifica-  
tion.

12. (1) In respect of any land in which minerals vest in the Government,—

(a) where any person fails to conduct reconnaissance or high technology reconnaissance-cum-exploration or prospecting or mining operations in accordance with a reconnaissance, or exploration plan or a prospecting or mining plan, as the case may be, prepared in the manner provided in this section, the State Government may after issuing a notice to show cause and giving him an opportunity of being heard, by an order, forfeit all or any part of the security deposit and may suspend, curtail or revoke the licence or lease having regard to the circumstances of the case.

*Explanation.*— For the purposes of this sub-section the framework of mining operations in respect of minor minerals not requiring a mining plan shall be deemed to be the mining plan;

(b) in every case where a part or all of the security deposit has been forfeited, the licensee or the lessee, as the case may be, shall furnish security to make up the deficiency before recommencing the operations under the licence or lease, as the case may be;

(c) without prejudice to the provisions contained in clauses (a) and (b), the State Government may also issue notice directing a person who fails to conduct reconnaissance or high technology reconnaissance-cum-exploration or prospecting or mining operations in accordance with the reconnaissance plan or an exploration plan or a prospecting or a mining plan, to show cause, and after giving him an opportunity of being heard, by an order, declare him to be ineligible for consideration for any mineral concession in accordance with the provisions of sub-section (3) of section 20 or sub-section (3) of section 22, as the case may be, for such period as it may specify, not exceeding five years, having regard to the circumstances;

(d) where at the expiry of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence or prospecting licence, the licensee fails to comply with the conditions of the licence, the State Government may, within a period of six months from the date of expiry of the licence, or the time given for fulfilment of the conditions, whichever is later, issue a notice asking him to show cause, and after giving him an opportunity of being heard, by an order, forfeit all or any part of the security deposit and may declare him to be ineligible for consideration for any mineral concession in accordance with the provisions of sub-section (3) of section 20 or sub-section (3) of section 22, as the case may be, for such period, as it may specify, not exceeding five years, having regard to the circumstances;

(e) orders under this sub-section shall be made by the State Government,—

(i) in respect of any major mineral where the Indian Bureau of Mines has approved the mining plan and mine closure plans, after consultation with the Indian Bureau of Mines on technical issues pertaining to such mining plan and mine closure plan; and

(ii) in case of coal minerals, atomic minerals and beach sand minerals, in consultation with the Central Government:

Provided that in case the Indian Bureau of Mines or the Central Government, as the case may be, does not express any opinion within a period of three months, the State Government may presume the concurrence of the Indian Bureau of Mines or the Central Government, as the case may be.

(2) In respect of any mineral concession relating to a land where the minerals vest with a private person, and the operations are not conducted in accordance with the reconnaissance, prospecting or mining plan, as the case may be, the State Government may, in the interest of mineral conservation and development, after giving such private person an opportunity of being heard, issue a direction to him to suspend, curtail or revoke the mineral concession and take any other action in accordance with the terms and conditions thereof as may be specified in such direction.

13. (1) In respect of any land where the minerals vest in the Government, the State Government shall, by notification, invite applications in the form of competitive offers for any mineral except coal minerals for grant of a prospecting licence over any area where reconnaissance has been conducted and sufficient evidence of enhanced mineralisation of the specified minerals has been established:

Notification of certain areas for grant of mineral concessions.

Provided that no application for a high technology reconnaissance-cum-exploration licence is pending relating to such area:

Provided further that no such notification shall be issued, in respect of an area in which reconnaissance or exploration or prospecting operations were completed under a licence, till the lapse of the period of six months from the date of the expiry of the licence, unless the area has been relinquished:

Provided also that in case where no application is received on an area notified under this sub-section, the State Government shall within a period of three months from the date of the said notification either re-notify the area or notify it as being available for grant of mineral concession under section 22.

(2) Where an application or applications for grant of prospecting licence has been filed on an area and the State Government has not issued any notification, the State Government may notify such area or areas within a period of one month from the date of receipt of the first application by amalgamating or expanding all or any of the applied areas, if required, in the interest of scientific mining, and the State Government may invite applications in the form of competitive offers for any mineral, except coal and atomic minerals for grant of a prospecting licence:

Provided that the area so notified shall not include any area for which there has been or is an application pending for more than one month prior on the date of the notification:

Provided further that where the State Government has notified an area, it shall provide an opportunity to an applicant who filed an application prior to such notification within a period of one month from the date of the provisional determination of the best offer for the purposes of sub-section (4) and to submit a competitive offer in terms of the said notification after being informed of the details of the best offer received by the State Government subsequent to the said notification of the area, and the State Government shall consider the applications in accordance with the provisions of sub-section (4) and grant the licence to the best overall offer:

Provided also that only those applicants who had applied *suo motu* without any notification of such area by the State Government shall be afforded an opportunity to submit a competitive offer under the second proviso, and any such offer shall be limited in respect of only the area notified irrespective of the areas for which such applicant had applied earlier:

Provided also that where the State Government fails to notify the area within the specified period under this sub-section, the applications for grant of prospecting licence shall be considered in accordance with the provisions of section 22.

(3) A notification issued under sub-sections (1) and (2) may specify that any application received shall be considered with reference to such criteria including all or any one of the following as per weightages assigned, as may be specified in the notification, namely:—

(a) specific knowledge and experience of prospecting possessed or accessed by the applicant;

(b) nature and quality of technical resources proposed to be employed;

(c) value addition such as mineral processing and beneficiation;

(d) end use including industries based on the mineral;

(e) provision of ore-linkage through long-term agreements with domestic industry;

(f) in the case of prospecting for iron ore, bauxite and limestone, having finished products production capacity at the time of commencement of this Act and captive ore resources which are likely to be exhausted in the near future; and

(g) a financial bid quoted either as a lump sum recoverable in instalments at the time of mining or a percentage of royalty or a profit sharing of mineral production.

*Explanation.*—For the purposes of this sub-section, —

(i) the financial bid shall offer the State Government to recover a value,—

(A) for its efforts in managing information relating to survey or regional exploration work including computer databases and samples for minerals; and

(B) for the mineral on the basis of market consideration to be based on a floor price set by the State Government on the available reconnaissance data;



(ii) the weightage shall be numerical in character and enable a composite ranking based on numerical marks assigned for each of the criteria listed in the notification in order to determine the best offer.

(4) The applications received in accordance with the conditions specified in the notification issued under sub-sections (1), (2) and (3) shall be considered in accordance with such criteria and weightage as specified in the notification, and the eligible applicant obtaining the best marks as per weightages, be granted the prospecting licence in accordance with the rules made under this Act:

Provided that the licence may include special conditions under which a mining lease shall be granted on an application made under sub-section (3) of section 25, including restrictions arising from requirements of value-addition or ore-linkage or restrictions on sale of ore in the case of captive resources.

(5) In such areas where prospecting has been conducted and sufficient evidence of enhanced mineralisation has been established through a prospecting report and feasibility study, and where no application for a mining lease is pending, the State Government shall by notification invite applications in the form of competitive bids for any minerals excepting coal minerals, for grant of mining lease, to the bidder who in accordance with the provisions of sub-section (6) quotes the best financial bid including the bid for the prospecting report and feasibility study for the area so notified:

Provided that no such notification shall be issued, in respect of an area in which prospecting operations were completed under a licence, until the lapse of the period of six months from the date of expiry of the licence unless the area has been relinquished:

Provided further that before issuing the notification under this sub-section in respect of any forest or wildlife area, the State Government shall obtain, —

(i) all forest clearances under the Forest (Conservation) Act, 1980 and wildlife clearance under the Wild Life (Protection) Act, 1972, or any other law for the time being in force, so as to enable the commencement of operations; and

(ii) all necessary permissions from the owners of the land and those having occupation rights.

*Explanation.*—For the purposes of this sub-section,—

(i) the financial bid shall offer the State Government either as a lump sum, recoverable in instalments or a percentage of royalty or a profit sharing, as may be specified in the notification, and the purpose of the financial bid for the prospecting report and feasibility study is to allow the State Governments to recover a value,—

(A) for its efforts in acquiring and managing information through detailed survey, exploration, feasibility studies, including computer databases, and cores and samples, computer databases and samples for minerals; and

(B) for the mineral on the basis of market consideration to be based on a floor price set by the State Government on the available prospecting data;

(ii) the expression “forest clearance” shall comprise conditional clearance on the basis of the recommendations of the committee constituted for the purpose.

(6) A notification issued under sub-section (5) may specify that bids received shall be considered with reference to such criteria including all or any one or more of the following, as per weightages assigned, as may be specified in such notification, namely:—

(a) special knowledge and appropriate experience in scientific mining and mineral beneficiation;

(b) bringing new and advanced technologies;

(c) investments in value addition such as mineral processing and beneficiation;

(d) having industrial capacity based on the mineral or having set up industry based on the mineral, and achieved financial closure for such project;

(e) providing ore-linkage through long-term agreements with domestic industry;  
 (f) constructing transportation networks (road and rail) and other infrastructure facilities in the mineral bearing area;

(g) in the case of iron ore, bauxite and limestone, having finished products production capacity at the time of commencement of this Act and captive ore resources which are likely to be exhausted in the near future; and

(h) financial bid including the bid for the prospecting report and feasibility study for the area so notified.

*Explanation.*—For the purposes of determination of best bid, the weightage shall be numerical in character and enable a composite ranking based on bid price and numerical marks assigned for each of criteria specified in the notification.

(7) The bids received under sub-section (5) shall be evaluated in the prescribed manner and the best eligible bid shall be issued the letter of intent for awarding the mining lease after obtaining all necessary statutory approvals and clearances, on such conditions as may be specified having regard to the criteria stated in the notification issued under sub-section (6) and the response thereto.

(8) In respect of atomic minerals and beach sand minerals, notification inviting applications and grant of the mineral concession shall be made with the prior approval of the Central Government.

(9) In respect of coal minerals, notification for inviting and grant of mineral concessions shall be made by the Central Government in such manner as may be prescribed by it.

(10) Notwithstanding anything contained in this section, notification of an area for inviting applications in respect of public lands in areas covered by the Fifth Schedule or the Sixth Schedule to the Constitution, shall be issued after consultation with the Gram Sabhas or District Councils, as the case may be, and in respect of non-Scheduled areas, after consultation with the District Panchayat.

(11) The State Government shall invite and entertain applications for grant of prospecting licence in an area relinquished by a holder of a high technology reconnaissance-cum-exploration licence or a prospecting licence only after such area is notified by the State Government for inviting applications for grant of prospecting licence under the provisions of sub-section (1) of section 13 or notified as being available for grant of concessions for the purpose of section 22:

Provided that if the State Government fails to notify such relinquished area within three months of such relinquishment, any person interested may apply to the State Government and in case it fails to notify the area within a further period of three months, the applicant may apply to the National Mining Tribunal in case of major minerals and State Mining Tribunal in case of minor minerals for notification of that area and the concerned Tribunal may direct the State Government to notify the area within such period as it may specify.

(12) The procedure for notifying an area for inviting applications for major minerals and grant of mineral concessions shall be such as may be prescribed by the Central Government.

(13) In respect of minor minerals, notwithstanding anything in this section, the procedure for notification and grant of mineral concessions shall be such as may be prescribed by the State Government:

Provided that before granting mineral concession for minor minerals in an area covered by the Fifth Schedule or the Sixth Schedule to the Constitution, the Gram Sabha or the District Council, as the case may be, shall be consulted.

Time limit  
for disposal of  
applications  
for grant of  
mineral  
concessions.

14. (1) In respect of any lands where the minerals vest in the Government, the State Government shall dispose off the applications for grant of non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence or prospecting licence

within the following period reckoned from the date of receipt of applications, namely:—

(a) within a period of three months in respect of non-exclusive reconnaissance licence;

(b) within a period of four months in respect of high technology reconnaissance exploration licence and prospecting licence.

*Explanation.*—For the purposes of this clause, where applications for prospecting licence are received in response to a notification under sub-section (1) or sub-section (2) or sub-section (4) of section 13, the time period for disposal shall be reckoned from the last date notified for receipt of applications.

(2) The State Government shall dispose off the applications for grant of mining lease in the following manner and within the time limit specified hereunder, namely:—

(a) a letter of intent or recommendation to the Central Government for giving prior approval if required, shall be issued within a period of four months,—

(i) from the opening of bids in respect of applications received under section 13; or

(ii) from the date of application in respect of application received under section 25; and

(b) the mining lease shall be executed within three months of intimation by means of a written communication by the applicant holding the letter of intent of his having obtained all clearances and approvals specified in the letter of intent.

(3) In any matter requiring the prior approval of the Central Government, the matter shall be disposed off by the Central Government, within a period of three months from the date of receipt of proposal from the State Government, and the State Government shall issue a letter of intent within a period of one month from the date of such approval by the Central Government.

(4) Where any application or written communication is deficient in information or documentation, the State Government shall, by notice issued within sixty days of receipt thereof, require the applicant to supply the omission within such period as may be specified having regard to the nature of the document or information, but not being a period of less than fifteen days and not more than sixty days, and such period is excluded from the time limits specified in sub-sections (1) and (2).

(5) Where an applicant for mineral concession fails to furnish documents and information as required under sub-section (4) for processing the application or written communication, the State Government after issuing a notice to show cause and giving him an opportunity of being heard, may by order forfeit the earnest money and reject his application for grant of mineral concession.

(6) Where an application is not disposed off within the limit specified in sub-sections (1), (2) or (3) subject to the provisions of sub-section (4), the applicant may apply to the National Mining Tribunal in the case of major minerals and the State Mining Tribunal in case of minor minerals, for a direction to the Central Government or State Government, as the case may be, to dispose of the application within such reasonable period as may be specified by the National Mining Tribunal or the State Mining Tribunal, as the case may be.

15. On issue of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence or mining lease under this Act, it shall be lawful for the holder of such licence or lease, his agents or his servants or workmen to enter the lands over which such licence or lease had been granted at all times during its currency and carry out all such reconnaissance, prospecting or mining operations as permitted:

Provided that no person shall enter into any building or upon an enclosed court or garden attached to a dwelling-house (except with the consent of the occupier thereof) without previously giving such occupier at least seven days notice in writing of his intention to do so.

Rights of a holder of non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence or prospecting licence or mining lease.

Act and rules to apply to all extension of mineral concessions.

Transfer of non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence and prospecting licence.

16. The provisions of this Act and the rules made thereunder shall apply in relation to the extension after the commencement of this Act of any prospecting licence or mining lease granted before such commencement as they apply in relation to the extension of a prospecting licence or mining lease granted after such commencement.

17. (1) A holder of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence or prospecting licence may, except in the case of coal minerals, atomic minerals and beach sand minerals, after the expiry of a notice of not less than ninety days to the State Government concerned, transfer his licence to any person eligible to hold such licence in accordance with the provisions of this Act and the rules made thereunder:

Provided that the holder of a prospecting licence, granted prior to the commencement of this Act and valid under the provisions of this Act, may after giving a notice of not less than ninety days to the State Government concerned, transfer his prospecting licence only to a person holding a prospecting licence or mining lease in the adjoining area, and any transfer in contravention of this proviso shall be void:

Provided further that the original licensee shall intimate to the State Government the consideration payable or paid by the successor-in-interest for the transfer, including the consideration in respect of the reconnaissance or prospecting operations already undertaken and the reports and data generated during the operations:

Provided also that no such transfer shall take place if the State Government, within the period specified in the notice for reasons to be communicated in writing, disapproves the transfer on the grounds that the transferee is not eligible as per the provisions of the Act.

(2) A non-exclusive reconnaissance licence or high technology reconnaissance-cum-exploration licence or prospecting licence in respect of coal minerals, atomic minerals and beach sand minerals shall be transferred only with the prior approval of the Central Government.

(3) On transfer of the licence, all rights and liabilities of, and under, the licence shall be transferred to the successor-in-interest.

(4) Subject to the provisions of sub-section (1), the holder of a licence may transfer his rights and liabilities within a period of six months after the expiry of the mineral concession period to a person eligible under this Act to hold a licence.

(5) On transfer of rights and liabilities, the successor-in-interest shall be entitled to consideration in terms of section 22 or section 25, as the case may be, as if he was the original holder of the mineral concession.

(6) The State Government may charge such fees for transfer of the mineral concession as may be prescribed by the Central Government.

(7) Nothing contained in this section shall be deemed to enable a holder of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence or a prospecting licence, in respect of land where the minerals vest in a private person, to transfer such licence other than in accordance with the terms and conditions of the mineral concession agreement.

Transfer of a mining lease.

18. (1) The holder of a mining lease shall not, without the previous approval in writing of the State Government, and in the case of coal minerals, atomic minerals and beach sand minerals, the previous approval in writing of the Central Government,—

(a) assign, sublet, mortgage, or in any other manner, transfer the mining lease, or any right, title or interest therein; or

(b) enter into or make any arrangement, contract, or understanding whereby the lessee may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or undertakings may be substantially controlled by any person or body of persons other than the lessee:

Provided that where the mortgagee is an institution or a bank or a corporation notified for the purpose by the Central Government under this Act, it shall not be necessary for the lessee to obtain any such approval of the State Government.

(2) Where a holder of a mining lease has filed an application to the State Government for approval of transfer of a mining lease and the State Government, having regard to the prospecting report if any, and approved Mining Plan and mining schemes and other related documents filed by the mining lease holder, is of the opinion that the amount of consideration between the transferor and the transferee is not adequate, it may issue a notification in such manner as may be prescribed by the State Government, inviting competitive financial bids, within one month of filing of the application for transfer, giving a last date, which shall not be more than thirty days from the date of notification, from the interested persons eligible under this Act, to submit their financial bids for the mining lease sought to be transferred.

(3) In all cases where the notification has been issued by the State Government under sub-section (2), it shall complete the evaluation of bids within a period of one month from the last date specified in the notification and,—

(a) permit the holder of mining lease to transfer the lease to the transferee at the amount of consideration stated in the application if the bid amount of the highest eligible bidder is not greater by twenty per cent. than the amount of such consideration stated in application; or

(b) direct the holder of mining lease to transfer the lease to the highest eligible bidder if the bid is higher than the consideration by more than twenty per cent., and the highest eligible bidder shall pay to such holder of mining lease, a sum equal to the amount of consideration stated in the application for transfer along with an additional amount equal to twenty per cent. thereof, and the remaining amount of bid shall be paid to the State Government in such manner as may be prescribed by the Central Government:

Provided that in all cases of applications for transfer of a mining lease granted by the State Government prior to the commencement of this Act under the provisions of sub-section (5) of section 11 of the Mines and Minerals (Development and Regulation) Act, 1957, as it stood before its repeal, the State Government may collect an additional fee, as may be prescribed by the Central Government, for such transfer:

67 of 1957.

Provided further that in case the State Government fails to complete the process of inviting competitive offers referred to in sub-section (2) within the period specified therein without any sufficient and adequate reasons for such failure, the holder of the mining lease may apply to the National Mining Tribunal for appropriate directions in this regard.

*Explanation.*—For the purposes of this sub-section, the highest eligible bidder shall be a person who gave the highest bid and is eligible to be granted the mining lease on the day of the determination of the bids.

(4) The State Government or the Central Government, as the case may be, shall not give its approval to transfer of a mining lease unless the transferee has accepted all the conditions and liabilities under any law for the time being in force to which the transferor was subject to in respect of such mining lease.

(5) No transfer of a mining lease shall be made to a person not eligible under this Act to hold the lease and no transfer be made by a person in contravention of the condition of, and subject to which the lease was granted.

(6) An application for transfer of mining lease shall,—

(a) state the reason for the transfer;

(b) state the consideration for the transfer;

(c) have attached to it, an agreement between the holder of mining lease who has applied for transfer of mining lease and the transferee setting out the terms and conditions of the offer and acceptance, with a validity period of at least a period of six months from the date of application;

(d) state whether the mining lease had been granted prior to the commencement of this Act under the provisions of sub-section (5) of section 11 of the Mines and Minerals (Development and Regulation) Act, 1957, as it stood before its repeal; and 67 of 1957.

(e) give such other particulars as may be prescribed by the Central Government.

(7) No transfer of a mining lease shall be permitted, if,—

(a) it leads to fragmentation or unscientific mining;

(b) it is not in the interest of mineral development; and

(c) it is against the national interest.

(8) Where the mining lease is in respect of land where the minerals vest in a private person, no transfer shall be permitted except in accordance with the terms and conditions of the mineral concession agreement in regard to the consent of such person.

(9) The State Government may charge fees for the transfer of the mining lease in case of a major mineral as may be prescribed by the Central Government and in case of minor minerals, as may be prescribed by the State Government.

(10) The Central Government and the State Government shall take into account the consideration payable by the transferee to the transferor while prescribing the fee under sub-section (9).

### CHAPTER III

#### NON-EXCLUSIVE RECONNAISSANCE LICENCE

Conditions of  
non-exclusive  
reconnaissance  
licence.

19. (1) In respect of every non-exclusive reconnaissance licence granted for major and minor minerals under this Act and the rules made thereunder, the licence holder shall,—

(a) progressively relinquish the area granted under the licence as shall be specified in accordance with the provisions of this Act and the rules made thereunder;

(b) file a reconnaissance plan in case of major minerals other than coal minerals with the Geological Survey of India, the Indian Bureau of Mines, and the State Directorate, and in case of coal minerals with the Central Government, and in case of minor minerals with the State Directorate concerned in such manner as may be prescribed by the Central Government, which shall include,—

(i) the particulars of the area such as aerial extent, in terms of latitude and longitude;

(ii) the scale of the plan and the area of geological mapping;

(iii) the particulars of the machines and instruments to be used, and the nature of the data proposed to be collected;

(iv) a quarterly plan of operations; and

(v) the quarterly detailed projection of expenditure on the operations:

Provided that in respect of minerals other than coal minerals, atomic minerals and beach sand minerals, with the prior approval of the State Directorate and in case of coal minerals, atomic minerals, beach sand minerals with the prior approval of the Central Government, the licence holder may modify the plan of operations or the State Directorate or the Central Government, as the case may be, may direct the licensee to modify his plan of operations, if it appears that ground operations proposed may be in conflict with the ground operations of another licensee who has already filed his plan.

*Explanation.*— For the purposes of this clause, the quarterly plan of operations shall be prepared so as to exclude overlapping of ground operation of the non-exclusive reconnaissance licence holders who have already filed the plan of operations for the area;

(c) make available all data including all the aerial, photo-geological, geophysical, geochemical and such other data collected by him to the Geological Survey of India, the State Directorate and in case of coal minerals, atomic minerals, beach sand minerals

to the Central Government, in such manner and within such intervals as may be prescribed by the Central Government;

(d) in case radiometric instruments are used, make available all radiometric data available to the Atomic Minerals Directorate;

(e) maintain detailed and accurate accounts of all the expenses incurred by him on the non-exclusive reconnaissance operations;

(f) submit reports to the Geological Survey of India, the Indian Bureau of Mines, the State Directorate and in case of coal minerals, atomic minerals, beach sand minerals to the Central Government, in such manner and within such intervals as may be prescribed by it and while submitting reports, the licence holder may specify that the whole or any part of the report or data submitted by him shall be kept confidential; and the Geological Survey of India, the Indian Bureau of Mines, the State Directorate, and in case of coal minerals, the Central Government, thereupon shall, keep the specified portions as confidential for a period of six months from the expiry of the licence, or abandonment of operations or termination of the licence, whichever is earlier;

(g) allow every officer authorised by the Central Government or the State Government as the case may be, in case of major minerals and the State Governments in case of minor minerals, to examine the accounts maintained;

(h) furnish to the Geological Survey of India, the Indian Bureau of Mines, and the State Directorate in case of major minerals, in case of coal minerals, atomic minerals, beach sand minerals to the Central Government, and in case of minor minerals to the State Directorate concerned, such information and returns as may be required in relation to the reconnaissance operations;

(i) allow any officer authorised by the Geological Survey of India or the State Directorate in case of major minerals and the officers of State Directorate in the case of minor minerals to inspect any reconnaissance operations carried on by the licence holder;

(j) pay to the State Government in respect of land in which minerals vest in the Government, and to the person in whom the minerals vests in other cases, a licence fee as may be notified by the Central Government, being an amount of not less than fifty rupees per square kilometre per year and not more than five hundred rupees per square kilometre per year or part thereof:

Provided that the Central Government may, by a notification, specify different rates for each successive years;

(k) obtain clearance from the Ministry of Defence in the Central Government, in case any Defence establishments lies in the area proposed for exploration;

(l) comply with such other conditions as may be prescribed by the Central Government.

(2) The non-exclusive reconnaissance licence may contain such other general conditions as may be prescribed in the interest of public safety or national security by the Central Government which, *inter alia*, may include the condition that a representative of the Directorate General, the Civil Aviation or the Ministry of Defence shall be present during the aerial surveys.

(3) The Central Government, in case of coal minerals, and the Indian Bureau of Mines in case of other major minerals, may issue direction to a non-exclusive reconnaissance licence holder to ensure compliance with the conditions of the licence and the licence holder shall be bound to comply with such directions.

(4) The licence holder shall before starting operations, deposit as security an amount equal to the licence fee levied for the first year and in case of breach of any condition imposed on a holder of a non-exclusive reconnaissance licence by or under this Act, the State Government may by order in writing, suspend, curtail or revoke the licence, and may forfeit in whole or in part, the amount deposited by the licence holder as security:

Provided that no such order shall be made without issuing a notice to the licence holder to show cause and giving him a reasonable opportunity of being heard:

Provided also that in case of land in which the minerals vest in a person other than the Government, the State Government shall give such person an opportunity of being heard and may issue directions to him to suspend, curtail or revoke the mineral concession or forfeit the security in accordance with the terms and conditions of the mineral concession agreement.

(5) In every case where a part or all of the security deposit has been forfeited, the licensee, shall furnish security deposit to make up the deficiency before recommencing operations under the licence.

(6) Any amount deposited as security deposit in accordance with the provisions of sub-section (3) shall unless forfeited, be returned to the licensee at the end of the six month period following the expiry or termination of the licence:

Provided that in case the return of the security or such part thereof as may be payable takes place more than thirty days after the expiry of the six months period, a simple interest at the rate of six per cent. per annum shall be payable for the period beyond thirty days.

Procedure for grant of non-exclusive reconnaissance licence.

20. (1) An application for grant of a non-exclusive reconnaissance licence in respect of any land in which the minerals vest in the Government shall be made to the State Government concerned in such form and manner, alongwith such application fee and earnest money as may be prescribed by the Central Government.

(2) The State Government shall acknowledge the receipt of the applications and cause them to be registered in such manner as may be prescribed by the Central Government in a register that shall be open to inspection by the public.

(3) The State Government shall grant the non-exclusive reconnaissance licence to every applicant who is eligible in accordance with the provisions of this Act and the rules made thereunder.

(4) In all cases where the State Government refuses an application, it shall communicate the reasons therefor:

Provided that no application shall be refused,—

(a) without communicating the grounds and giving the applicant an opportunity to represent within a reasonable period of not less than thirty days; and

(b) on grounds of incompleteness of material particulars without requiring the applicant to supply the requisite documents or information.

(5) Grant of every non-exclusive reconnaissance licence shall be notified in the Official Gazette, and in the official website by the State Government.

#### CHAPTER IV

##### HIGH TECHNOLOGY RECONNAISSANCE-CUM-EXPLORATION LICENCE AND PROSPECTING LICENCE

Conditions of a high technology reconnaissance-cum-exploration licence and prospecting licence.

21. (1) In respect of every high technology reconnaissance-cum-exploration licence granted for major minerals and prospecting licence granted for major minerals and minor minerals under this Act and the rules made thereunder, the licence holder shall,—

(a) progressively relinquish the area granted under the licence as shall be specified in accordance with the provisions of the Act and the rules made thereunder.

(b) prepare and file an exploration plan in respect of a high technology reconnaissance-cum-exploration licence or a prospecting plan in case of a prospecting licence with the Geological Survey of India, the Indian Bureau of Mines and the State Directorate in respect of major minerals (other than coal minerals) and in case of coal minerals with the Central Government, and the State Directorate in the case of minor minerals including such particulars and, in such manner as may be prescribed by the



Central Government, which shall include,—

- (i) the particulars of the area being prospected;
- (ii) the scale of the plan and the area of geological mapping;
- (iii) a six monthly plan of operations including—
  - (a) the number of pits, trenches, and bore holes which he proposes to put in the area;
  - (b) the number of samples proposed to be drawn and analysed;
  - (c) the particulars of the machines to be used;
  - (d) the details of exploratory mining if any, proposed to be undertaken;
  - (e) the beneficiation studies proposed to be undertaken.

(iv) appropriate baseline information of prevailing environmental conditions before the beginning of reconnaissance or prospecting operations;

(v) steps proposed to be taken for protection of environment which shall include prevention and control of air and water pollution, progressive reclamation and rehabilitation of the land disturbed by the prospecting operations, a scheme for the plantation of trees, restoration of local flora and water regimes and such other measures, as may be directed from time to time by the Indian Bureau of Mines or the State Directorate as the case may be for minimizing the adverse effect of prospecting operations on the environment;

(vi) the details of the six monthly expenditure to be incurred on the operations;

(vii) any other matter relevant for scientific prospecting, as directed by the Indian Bureau of Mines or the State Directorate, as the case may be, from time to time by a general or specific order:

Provided that the exploration plan shall be filed with the Geological Survey of India in respect of high technology reconnaissance-cum-exploration licence, in such manner as may be notified by the Geological Survey of India from time to time;

(c) carry out the reconnaissance or prospecting operations in accordance with the exploration plan or prospecting plan submitted by him, with such modifications, if any, as directed by the Indian Bureau of Mines or the State Directorate and in case of coal minerals the Central Government, as the case may be:

Provided that where the licensee proposes to conduct reconnaissance or prospecting operations in a manner at variance with the plan already submitted, he shall prepare and file a revised or supplementary exploration plan or prospecting plan in such manner as may be prescribed by the Central Government;

(d) make available all data collected by him during prospecting operations to the Geological Survey of India, Indian Bureau of Mines and the State Directorate; in case of coal minerals to the Central Government, and in case of atomic minerals, to the Atomic Minerals Directorate in such manner as may be prescribed by the Central Government:

Provided that such data shall be made available to the Geological Survey of India in respect of high technology reconnaissance-cum-exploration licence, to such an extent as may be notified by the Geological Survey of India from time to time;

(e) maintain complete and correct accounts of all the expenses incurred by him during the reconnaissance or prospecting operations;

(f) submit a report on progress of operations under the exploration plan or prospecting Plan to the Indian Bureau of Mines and the State Directorate and in case

of coal minerals to the Central Government, in such manner and intervals as may be prescribed by the Central Government;

(g) pay to the State Government in respect of any land in which the minerals vest with it, and to the person in whom the minerals vest in other case such licence fee, as may be notified by the Central Government, being an amount not exceeding rupees fifty per hectare of land covered by the licence for each year or part of a year of the period for which the licence is granted or extended:

Provided that the notification of the Central Government may specify a rate that may be different for each of the successive years;

(h) within a period of three months after the determination of the licence or the date of abandonment of the prospecting operations, whichever is earlier, securely plug all bores and fill up or fence all excavations in the land covered by the licence:

Provided that if in any part of the area the licensee receives a letter of intent for grant of mining lease within this period he may carry out such amount of work as may be consistent with the mining operations under such lease;

(i) in case the minerals vest in the Government, report to the State Directorate the discovery of any major mineral not specified in the licence within a period of sixty days from the date of such discovery and consequent upon such reporting, such newly discovered minerals (except coal minerals, atomic minerals and beach sand minerals) are deemed to have been included in the high technology reconnaissance-cum-exploration licence or prospecting licence, as the case may be:

Provided that in case of high technology reconnaissance-cum-exploration licence, only major minerals (other than iron ore, bauxite, limestone, coal minerals or other bulk minerals) shall be included in the licence;

(j) take immediate measures, in such manner as may be prescribed by the Central Government, to restore, as far as possible and at least to the extent given in the exploration plan or prospecting Plan, the areas in which prospecting operations have been conducted, including replacement of soil cover, removal of contaminants and pollutants introduced during prospecting operations, restoration of local flora and water regimes in such manner as may be prescribed by the Central Government;

(k) pay to the person holding occupation rights of the surface of the land such compensation as may be notified;

(l) obtain clearance from the Central Government in the Ministry of Defence, in case the Defence establishments are situated in the area proposed for exploration;

(m) comply with such other conditions as may be prescribed by the Central Government.

(2) A high technology reconnaissance-cum-exploration licence or a prospecting licence may contain such other general conditions which are as follows, namely:—

(a) compensation for damage to land in respect of which the licence has been granted;

(b) indemnity to Government against the claims of a third party for any damage, injury or disturbance caused to him by the licensee;

(c) restrictions regarding felling of trees on occupied and unreserved Government land;

(d) restrictions on reconnaissance or prospecting operations in any area prohibited by any competent authority;

(e) operations in a reserved or protected forest;

(f) entry on occupied land;

(g) facilities to be given by the licensee for working other minerals in the licenced area or adjacent areas; and

(h) filing of civil suits or petitions relating to disputes arising out of the area under the high technology reconnaissance-cum-exploration licence or a prospecting licence.

(3) The Central Government in case of coal minerals, and Indian Bureau of Mines in case of other major minerals, or the State Directorate may issue directions to a holder of a high technology reconnaissance-cum-exploration licence or a prospecting licence to ensure compliance with the conditions of the licence and the licence holder shall comply with such directions.

(4) Before grant of a high technology reconnaissance-cum-exploration licence or a prospecting licence, as the case may be, the applicant shall deposit a sum equal to the licence fee for the first year as security and in case of breach of any condition imposed on any holder of a high technology reconnaissance-cum-exploration licence or a prospecting licence, as the case may be, by or under this Act, the State Government may, by order in writing, suspend, curtail or cancel the licence and may forfeit, in whole or part, the amount deposited by the licensee:

Provided that no such order shall be made without issuing a notice to the licensee to show cause and giving him a reasonable opportunity of being heard:

Provided further that in case of land in which the minerals vest in a private person, the State Government shall afford such person an opportunity of being heard and may issue directions to him to suspend, curtail or revoke the mineral concession or forfeit the security in accordance with the terms and conditions thereof.

(5) In every case where a part or all of the security deposit has been forfeited, the licensee shall furnish security to make up the deficiency before recommencing operations under the licence.

(6) Any amount deposited as security, in accordance with the provisions of sub-section (4), shall unless forfeited, be returned to the licensee at the end of six months after the expiry or termination of the licence, as the case may be:

Provided that in case the return of the security or such part thereof as may be payable takes place more than thirty days after the expiry of the said period of six months, a simple interest at the rate of six per cent. per annum shall be payable by the State Government for the period beyond thirty days.

22. (1) Applications for grant of a high technology reconnaissance-cum-exploration licence or prospecting licence in respect of any land in which minerals vest in the Government shall be made to the State Government concerned in such form and manner, alongwith such application fee and earnest money as may be prescribed by the Central Government.

(2) The State Government shall acknowledge the receipt of the application and the same shall be recorded in a register in such manner, as may be prescribed by the Central Government, which shall be open to public for inspection in such manner as may be specified by it.

(3) The State Government shall consider only such applications as are eligible in accordance with the provisions of this Act and the rules made thereunder and refuse all ineligible applications for reasons to be communicated to the applicants:

Provided that the applications received later to the first eligible application in respect of an area shall not be considered till disposal of all applications received earlier and communication to the applicants of the reasons for the disposal:

Provided further that in case of grant of prospecting licence, such applications shall also be subject to the provisions of sub-section (7).

(4) Except in the case of applications for prospecting licences received in response to a notification under sub-section (1) of section 13 of this Act, the State Government shall grant the high technology reconnaissance-cum-exploration licence or prospecting licence in respect of the land to the first applicant eligible under this Act and the rules made thereunder and all other applicants be deemed to have been refused to the extent of the area granted to the first applicant:

Procedure for  
grant of high-  
technology  
reconnais-  
sance-cum-  
exploration  
licence and  
prospecting  
licence.

Provided that in case of prospecting licence, such applications shall also be subject to the provisions of sub-section (7).

(5) In all cases where the State Government refuses an application and proceeds to consider a subsequent application, it shall communicate the reasons therefor:

Provided that no application shall be refused,—

(a) without communicating the grounds and giving the applicant an opportunity to represent within a reasonable period of not less than thirty days; and

(b) on grounds of incomplete material particulars in the application, without requiring the applicant to supply the requisite documents or information.

(6) In case of grant of prospecting licence, the application shall not be refused on the ground that other applications have been received for grant of non-exclusive reconnaissance licence or high technology reconnaissance-cum-exploration licence in the area applied.

(7) In case of grant of prospecting licence, the application of a person eligible under this Act, made within six months of completion of reconnaissance operations under a non-exclusive reconnaissance licence held by him or held by his predecessor-in-interest has the first right to the exclusion of other applications notwithstanding anything in sub-sections (3) and (4) to the contrary and where there is more than one such application for the same land, the application received later shall not be considered till disposal of all applications received earlier and communication of reasons for the disposal, and the State Government shall grant the licence to the earliest applicant eligible for the licence.

*Explanation.*— For the purposes of this sub-section, the person who intends to invest in reconnaissance operations, directly or by acquiring the reconnaissance data shall have the legitimate expectation that his investment will enable him to acquire prospecting rights to the exclusion of a person who makes no such investment.

(8) Grant of every high technology reconnaissance-cum-exploration licence or a prospecting licence shall be notified in the Official Gazette and in the official website of the State Government.

Issue of notification where prospecting operations are to be undertaken by the Geological Survey of India, etc.

23. (1) Where a reconnaissance or prospecting operation in respect of lands in which minerals vest in the Government is to be undertaken by the Geological Survey of India, the Atomic Minerals Directorate, the State Directorate, the Mineral Exploration Corporation Limited, the Singareni Collieries Limited or the Neyveli Lignite Corporation Limited, the Central Mine Planning and Design Institute Limited or such other agencies as may be notified in this behalf under section 4, the State Government shall issue a notification giving details of the area, and the period for which the reconnaissance or the prospecting operations are to be undertaken:

Provided that such period shall not be for more than six years.

(2) The agency undertaking prospecting operation shall make a report for every six months of its progress of reconnaissance or prospecting in such manner as may be prescribed by the Central Government, and submit the reconnaissance or prospecting report and the geological study, pre-feasibility study or feasibility study, as the case may be, to the State Government at the end of the reconnaissance or prospecting operations in such manner and such terms and conditions as may be prescribed by the Central Government.

(3) The State Government may revoke a notification issued under sub-section (1), if the reconnaissance or prospecting operations have been completed before the expiry of the period stated in the notification.

(4) The State Government shall not entertain any application for grant of any non-exclusive reconnaissance licence or high technology reconnaissance-cum-exploration licence or prospecting licence or mining lease to any person for an area or part thereof in relation to which a notification has been issued under sub-section (1), for the period that the notification is in operation, and such application is deemed never to have been made.

## CHAPTER V

## MINING LEASE

24. (1) Every mining lease for a major mineral or a minor mineral shall be subject to the fulfilment of the following conditions, namely:—

Conditions of  
a mining lease.

(a) all mining operations shall be in accordance with a mining plan prepared in accordance with the provisions of this Act or the rules made thereunder;

(b) the lessee shall report to the State Government, the discovery of any mineral in the leased area not specified in the lease for which rights vest in the Government, within a period of sixty days of such discovery;

(c) if any mineral not specified in the lease is discovered in the leased area, the lessee shall not win and dispose of such mineral unless such mineral is included in the lease or a separate lease is obtained therefor;

(d) the lessee shall pay to the State Government in case of land in which minerals vest in the State Government and to the person in whom the minerals vest in other cases, for every year or part thereof, except the first year of the lease, yearly dead rent at the rate specified in the Third Schedule of the Act subject to the provisions of section 42 of this Act:

Provided that if the lease relates to the working of more than one mineral in the same area, the State Government or the person in whom the minerals vest in other cases, as the case may be, shall not charge separate dead rent in respect of each mineral:

Provided further that the lessee shall be liable to pay the dead rent or royalty in respect of each mineral whichever is higher in amount but not both;

(e) the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent and water rate at such rate, as may be prescribed by the State Government;

(f) the lessee shall furnish the following in such manner and in such period as may be prescribed by the Central Government, namely:—

(i) all geological, geochemical and geophysical and hydrological data relating to the leased area collected by him during the course of operations to the Indian Bureau of Mines and the State Directorate and in case of coal minerals to the Central Government;

(ii) all information pertaining to investigations of atomic minerals collected by him during the course of mining operations to the Atomic Minerals Directorate;

(g) the lessee shall commence mining operations within a period of two years from the date of execution of the lease deed and thereafter conduct such operations in a scientific, skillful and workman-like manner.

*Explanation.*—For the purpose of this clause, mining operations shall include the erection of machinery, laying of a tramway or construction of a road in connection with the working of the mine;

(h) the lessee shall,—

(i) at his own expense, erect and at all times maintain and repair boundary marks and pillars necessary to indicate the demarcation shown in the plan annexed to the lease;

(ii) not carry on, or allow to be carried on, any mining operations at any point within a distance of fifty metres from any railway line, except under and in accordance with the written permission of the railway administration concerned or under or beneath any ropeway or ropeway trestle or station, except under and in accordance with the written permission of the authority owning the ropeway or from any reservoir, canal or other public works, or buildings, except under and in accordance with the previous permission of the State Government;

(iii) strengthen and support, to the satisfaction of the railway administration concerned or the State Government, as the case may be, any part of the mine which in its opinion requires such strengthening or support for the safety of any railway, reservoir, canal, roads or any other public works or buildings;

(i) the lessee shall keep accurate and correct accounts showing the quantity and other particulars of all minerals obtained and dispatched from the mine, the number and nationality of the persons employed therein, and complete plans of the mine, and allow any officer authorised by the Central Government or the State Government, as the case may be in this behalf, by general or special order, to examine at any time any accounts, plans and records maintained by him and furnish the Central or the State Government, as the case may be, with such information and returns as it or any officer authorised by it in this behalf may require;

(j) the lessee shall keep in such manner and in respect of such matters as may be prescribed by the Central Government, accurate records of all trenches, pits and drillings made by him in the course of mining operations carried on by him under the lease, and allow any officer authorised by the Central Government or the State Government, as the case may be, in this behalf by general or special order to inspect the same;

(k) the lessee shall allow any officer authorised by the Central Government or the State Government, as the case may be, in this behalf by general or special order to enter upon any building, excavation or land comprised in the lease for the purpose of inspecting the same;

(l) the lessee shall carry on his operations in accordance with the approved mining plan and take immediate measures in such manner as may be prescribed by the Central Government to restore, as far as possible and at least to the extent given in the mining plan, the areas in which mining operations have been conducted, including replacement of soil cover, removal of contaminants and pollutants introduced during mining operations, restoration of local flora, and water regimes in such manner as may be prescribed by the Central Government;

(m) the lessee shall pay to the District Mineral Foundation such amount as specified in sub-section (2) of section 43;

(n) the lessee shall deposit with the State Government in case of major minerals that vest in the Government, an amount calculated at the rate of rupees one lakh per hectare of the lease area payable in equal instalments over the mining plan period as security for due observance of the terms and conditions of the lease:

Provided that the Central Government may from time to time, by notification, vary the amount of the deposit in respect of leases granted or extended after such notification:

Provided further that in case the mineral vests in a person other than the Government, such person shall require to deposit such sum not less than the rate specified in the first proviso:

Provided also that in case of small deposits the lessee shall be required to pay security deposit for the broken up area, mineral storage and waste and over-burden area in the mining lease as per the rate prescribed by the Central Government in this sub-section:

Provided also that in the case of minor minerals the deposit shall be such as may be notified by the State Government and the provisions of this section apply *mutatis mutandis* to minor minerals;

(o) the lessee shall set up a grievance redressal mechanism in such manner as may be prescribed by the Central Government, to address concerns of persons affected

by mining operations in accordance with the requirements of the Sustainable Development Framework in terms of section 46;

(p) the lessee shall comply with such other conditions as may be prescribed by the Central Government.

(2) The Central Government in case of coal minerals and the Indian Bureau of Mines in case of other major minerals or the State Directorate may issue directions to a lessee to ensure compliance with the conditions of the lease and the lessee shall comply with such directions.

(3) If the lessee does not allow entry or inspection in respect of any matter covered under sub-section (1), or does not comply with directions issued under sub-section (2) where it relates to land in which minerals vest in the Government, the State Government shall give notice in writing to the lessee requiring him to show cause within such time as may be specified in the notice, which is not less than two days and not more than fifteen days, as to why the lease not be determined and his security deposit forfeited, and if the lessee fails to show cause within the aforesaid time to the satisfaction of the State Government, in respect of land in which mineral vest in the Government, the State Government may determine the lease and forfeit the whole or part of the security deposit:

Provided that in respect of any land in which the minerals vest in a person other than the Government, the Government may, after giving an opportunity of being heard to such person, direct him to determine the lease and forfeit the whole or part of the security deposit.

(4) If the lessee makes any default in the payment of royalty as required under section 41 or payment of dead rent as required under section 42 or payment of compensation to the District Mineral Foundation as required under section 43 or payment of cess as required under section 45 or section 46 or commits a breach of any of the conditions specified in sub-section (1), the State Government shall give a show cause notice to the lessee requiring him to pay the royalty or dead rent or payment of compensation to District Mineral Foundation or cess, as the case may be, along with interest at the rate of fifteen per cent. per annum or remedy the breach, as the case may be, within a period of thirty days from the date of the receipt of the notice and if the royalty or dead rent or payment of compensation to District Mineral Foundation or cess is not duly paid alongwith the interest or the breach is not remedied within the said period, the State Government in case the minerals vest in it, may without prejudice to any other proceedings that may be taken against him, determine the lease and forfeit the whole or part of the security deposit:

Provided that in respect of land where the minerals vest in a person other than the Government, the Government may, after giving an opportunity of being heard to such person, direct him to determine the lease and forfeit the whole or part of the security deposit.

(5) In every case where part or all of the security has been forfeited the lessee shall furnish security to make up the deficiency before recommencing operations under the lease.

(6) Any amount deposited as security deposit in accordance with the provisions of sub-section (4) shall, unless forfeited, be returned to the lessee at end of the six months period after the expiry or termination of the lease:

Provided that in case the return of the security deposit or such part thereof as may be payable takes place more than thirty days after the expiry of the six months period, simple interest at the rate of six per cent. per annum shall be payable for the period beyond thirty days.

25. (1) The mining lease in respect of land in which minerals vest in the Government shall, except in case where a mining lease is granted in accordance with the provisions of sub-section (5) of section 13, be granted only on application made by a person who has held a high technology reconnaissance-cum-exploration licence or a prospecting licence for the area and no other applications shall be entertained in this regard.

Procedure for  
grant of  
mining lease.

(2) The State Government shall acknowledge the receipt of the application and the same shall be registered in a register in such manner, as may be prescribed by the Central Government, which shall be open to public for inspection in such manner as may be specified by it.

(3) The application of a person, eligible under this Act, made within six months of completion of operations under a high technology reconnaissance-cum-exploration licence or prospecting licence held by him or held by his predecessor-in-interest shall be approved for grant of mining lease subject to eligibility and the fulfillment of general conditions as may be prescribed by the Central Government, and such special conditions as specified under proviso to sub-section (4) of section 13:

Provided that in case such application for mining lease is rejected, no other application shall be considered and the area shall be notified for grant of mineral concession under sub-section (1) or sub-section (5) of section 13, as the case may be.

(4) In every case of an approval for grant of mining lease under sub-section (3), the State Government shall issue a letter of intent to the applicant enabling him to obtain the statutory approvals and clearances necessary for the execution of the lease deed.

(5) Grant of every letter of intent and lease shall be notified in the Official Gazette and in the official website of the State Government.

Mining  
operations to  
be in accor-  
dance with  
mining plan.

26. (1) Subject to the provisions of this Act and rules made thereunder, mining operations shall be undertaken in accordance with a mining plan, prepared for the entire leased area in such manner as may be prescribed by the Central Government, which may include scientific methods of mining within a Sustainable Development Framework, beneficiation and economic utilisation and induction of technology to ensure extraction and best utilisation of the run of the mine:

Provided that a mining Plan shall not be required in respect of such minor minerals as are notified for the purpose by the State Government in consultation with the Indian Bureau of Mines:

Provided further that in respect of any minor mineral for which a mining plan is not required, the State Government, in consultation with the Indian Bureau of Mines, shall prescribe a framework within which mining operations shall be carried out and the mining framework is deemed to be in the nature of a general direction issued under section 46 of this Act:

Provided also that for the purposes of section 12, and section 24, the framework is deemed to be the mining plan.

(2) On acceptance of an application for a mining lease, and before the execution of the lease deed, the applicant shall cause to be prepared and approved a mining Plan for the entire area proposed to be granted for lease in such manner as may be prescribed by the Central Government.

(3) Without prejudice to the generality of the provisions of the mining plan, there shall be attached to the mining plan in respect of all major minerals, a corporate social responsibility document, comprising of a scheme for annual expenditure by the lessee on socio-economic activities in and around the mine area for the benefit of the host population in the panchayats adjoining the lease area and for enabling and facilitating self employment opportunities, for such population, and the lease holder shall, at the end of each financial year, publish in his annual report and display on the website, the activities undertaken during the year and the expenditure incurred thereon.

(4) No mining plan shall be approved, unless it is prepared by a qualified person or firm or other association of persons accredited in this behalf in such manner as may be prescribed by the Central Government.

(5) No person shall be accredited for purposes of sub-section (4) unless he,—

(a) is qualified as a mining engineer or geologist;



(b) has fulfilled the requisite experience as may be prescribed by the Central Government; and

(c) meets such other requirements as may be prescribed by the Central Government in order to further the objective of scientific mining:

Provided that in respect of persons being firms or other association of persons or companies, the eligibility and conditions of accreditation shall be such as may be prescribed by the Central Government:

Provided further that the Central Government may prescribe different eligibility and other conditions for different grades of accreditation.

(6) The mining plan for major minerals shall, except in case of coal minerals and atomic minerals, be approved by officers of the Indian Bureau of Mines, authorised by general orders in this behalf by the Controller General, and for minor minerals the plan shall be approved by officers of the State Directorate authorised in this behalf, by the general order of the State Government:

Provided that the Central Government may, on being satisfied that the State Directorate possesses the necessary technical and management capability as may be prescribed, empower the State Directorate to grant approvals for such major minerals and in such circumstances as may be specified in the notification:

Provided further that in case the Central Government, at any time, is of the opinion that the State Directorate does not possess the requisite technical and management capability, it may suspend or revoke the power granted and may direct it to be exercised by officers of the Indian Bureau of Mines in accordance with the provisions of this sub-section.

(7) Any person aggrieved by the approval or refusal under sub-section (6) in respect of a mining Plan for major minerals other than coal and atomic minerals, may apply to the Controller General, the Indian Bureau of Mines, for reversal or modification of such an order and the Controller General may confirm, modify or set aside the order or direction in respect of the mining plan.

(8) Any person aggrieved by the order or direction under sub-section (6) in respect of a mining plan or a framework for minor minerals may apply to the Director of the State Directorate for cancellation or modification of such an order and the Director may confirm, modify or set aside the order or direction in respect of the mining plan or framework, as the case may be.

(9) No person shall conduct mining operations in any area except in accordance with a mining plan as approved under this Act.

(10) The Controller General or authorised officer of the Indian Bureau of Mines or the officer authorised in this behalf by the State Directorate, as the case may be, may require the holder of a mining lease to make such modifications in the mining plan or impose such conditions as may be considered necessary by an order in writing if such modifications or imposition of conditions are considered necessary,—

(a) in the light of the experience of operation of mining plan; and

(b) in view of the change in the technological environment.

(11) In respect of coal minerals and atomic minerals, the provisions of this section shall be applied, *mutatis mutandis*, by the Central Government.

27. Subject to the provisions of this Act or any law for the time being in force, the lessee with respect to the land leased to him shall have the right for the purpose of mining operations on that land, to—

(a) work the mines;

(b) sink pits and shafts and construct buildings and roads;

(c) erect plant and machinery;

Rights of a  
lessee.

- (d) quarry and obtain building material and road materials and make bricks;
- (e) use water and take timber;
- (f) use land for stacking purpose;
- (g) install fuel pumps or stations for diesel or petrol for own use;
- (h) construct magazine for explosives, and storage sheds for explosive related substances with permission from the licencing authority concerned;
- (i) store overburden material in areas identified for the purpose;
- (j) divert public roads, overhead electric lines passing through the lease area, to facilitate scientific mining; and
- (k) do any other thing as specified in the lease.

Extension of  
mining lease.

28. (1) An application for the extension of a mining lease shall be made in such manner as may be prescribed by the State Government through such officer or authority as it may specify in this behalf, or the person in whom the minerals vest, as the case may be, at least twenty four months before the date on which the lease is due to expire.

(2) The extension of a lease which is required to be granted with the prior approval of the Central Government shall be extended with the prior approval of the Central Government.

(3) An application for extension made under sub-section (1) shall be disposed of by the authority competent to grant a lease for the mineral within twelve months from the date of receipt of the application and the provisions of sub-sections (4), (5) and (6) of section 14 shall, *mutatis mutandis*, apply to applications for extension:

Provided that before granting approval for a second or subsequent extension of a mining lease, in respect of land in which minerals vest in the Government, the State Government shall seek a report from the Indian Bureau of Mines in respect of major minerals other than coal and atomic minerals and the State Directorate in the case of minor minerals, as to whether it is in the interest of mineral development to grant the extension of the mining lease:

Provided further that in case a report is not received from the Indian Bureau of Mines within a period of three months of receipt of the communication from the State Government, it would be deemed that the Indian Bureau of Mines has no objection to the grant of extension of the mining lease.

(4) If an application for the extension of a mining lease made within the time referred to in sub-section (1) is not disposed off by the State Government before the date of expiry of the lease, the period of the lease shall be deemed to have been extended till the State Government passes an order thereon or the person in whom the minerals vest communicates his approval or rejection of the application, as the case may be.

(5) The State Government may, by an order condone the delay in an application for extension of mining lease made after the time limit specified in sub-section (1) if the application has been made before the expiry of the lease and there are sufficient reasons, to be recorded in writing, to condone the delay, and the provisions of sub-section (4) shall be applicable in such case.

Lapsing of  
leases and  
revival.

29. (1) Subject to the provisions of this section, in respect of land in which the minerals vest in the Government, where mining operations are not commenced within a period of two years from the date of execution of the lease, or discontinued for a continuous period of two years after the commencement of such operations, the State Government may after issuing a notice to the lease holder to show cause and giving him an opportunity of being heard, declare that the lease has lapsed and without prejudice to the foregoing, the State Government on being satisfied that the lessee did not show due diligence, may also declare him to be in breach of the conditions of such lease and, therefore, ineligible for consideration under sub-section (3) of section 20 or sub-section (3) of section 22 or sub-section (3) of section 25, as the case may be, for such period not exceeding five years as may be specified, having regard to the nature of the breach.

(2) A lessee who is unable to commence the mining operations within a period of two years from the date of execution of the mining lease, or discontinues mining operations for a period exceeding two years for reasons beyond his control, may, at least three months before the expiry of such period, seek extension of period for commencing or recommencing mining operations, as the case may be, and the State Government on being satisfied the adequacy and genuineness of the reasons for non commencement of mining operations or discontinuance thereof, pass an order condoning the period of delay in commencement or recommencement of the mining operations, as the case may be:

Provided that such an order shall be passed by the State Government within a period of three months from the date of receipt of the application.

(3) A lessee who is unable to commence the mining operations within a period of two years from the date of execution of the mining lease, or discontinues mining operations for a period of exceeding two years for reasons beyond his control, may within a period of six months from the date of its lapse, seek revival of the lease and the State Government on being satisfied about the adequacy of the reasons for non commencement of mining operations or discontinuance, may pass an order reviving the lease:

Provided that such an order shall be passed within a period of six months from the date of making an application for revival:

Provided further that the lease has not been revived earlier under this sub-section for more than twice during the entire period of the lease:

Provided also that in respect of coal, atomic minerals and beach sand minerals, prior approval of the Central Government shall be obtained before orders are issued under this section.

(4) The manner, the procedures for condonation of delay and the reasons for commencement or recommencement in respect of matters specified in sub-sections (2) and (3) shall be such as may be prescribed by the Central Government.

(5) Any person aggrieved by an order, passed by the State Government under sub-sections (1), (2) or (3) or by failure of the State Government to pass an order within the period specified therein, may apply to the National Mining Tribunal or State Mining Tribunal, as the case may be, and the Tribunal concerned may issue appropriate direction.

30. (1) A lessee shall not determine the lease except after notice in writing of not less than twelve calendar months to the State Government or to such officer, or the authority as the State Government may specify in this behalf in respect of land in which minerals vest with the Government and to the person in whom the minerals vest in other cases, in accordance with the terms and conditions of the mineral concession:

Determination  
of lease.

Provided that where a lessee, holding a mining lease for a mineral or for a group of minerals, applies for the surrender of the lease or part area thereof or any mineral from the lease on the ground that deposits of that mineral have since exhausted or depleted to such an extent that it is no longer economical to work the mineral, he shall give notice of not less than six months and the State Government or the person in whom the minerals vest, as the case may be, may permit the lessee to surrender that lease or part area thereof or minerals, as the case may be, subject to conditions as may be prescribed by the Central Government.

(2) In every case where a lease is determined or surrendered under sub-section (1) the lessee shall at his own cost prepare and implement a Final Mine Closure Plan in accordance with the provisions of section 32 and shall close the mine or part thereof in accordance with the provisions of section 33.

(3) In respect of any land in which the minerals vest in the Government, in the event of breach of any of the conditions of the lease, the State Government may by an order, after giving an opportunity of being heard to the lessee, determine the lease or forfeit in whole or in part, the amount deposited as security by the lessee, and in case the lease is determined shall direct the lessee to prepare and implement a Final Mine Closure Plan in accordance

with the provisions of the sections 32 and 33, and in the event of his failure to do so, may prepare and implement the Plan at the cost of the lessee.

(4) Where it appears to the Central Government, upon any investigation conducted by the Central Government agency under the National Investigation Agency Act, 2008 or any other law for the time being in force, that the mining activities in any area under lease is related to or aiding or abetting organised crime or anti-national activities of outlawed or insurrectionist organisations or that such mining activities is prejudicial to the national security, it may, for reasons to be recorded in writing, direct the State Government to determine the mining lease and the State Government shall determine the lease forthwith in case the minerals vest with the State Government, and in case the minerals vest in a person other than the State Government, the State Government shall issue a direction to such person to determine the lease and such person shall forthwith comply with such direction. 34 of 2008.

(5) In respect of any land in which the minerals vests in a private person where the lease is determined due to breach of any of the conditions of the lease, such person shall prepare and implement the Final Mine Closure Plan at his cost.

(6) Any person aggrieved by an order, made under sub-section (3) or sub-section (4), may apply to the National Mining Tribunal in respect of an order issued by the Central Government or an order issued by the State Government, as the case may be, in respect of major mineral, and to the State Mining Tribunal in respect of minor mineral, and the National Mining Tribunal or the State Mining Tribunal, as the case may be, may after giving an opportunity of being heard to the party, confirm, modify or set aside the order.

Premature  
termination of  
lease.

31. (1) Where the State Government is of the opinion that it is in the public interest or in the interest of public safety to do so, it may for reasons to be recorded in writing make an order of premature termination of the mining lease in case the minerals vest in the Government, and issue a direction to this effect to the person in whom the minerals vest in other cases:

Provided that no premature termination of a mining lease shall be made without giving the lessee a reasonable opportunity of being heard.

(2) In every case of premature termination of a lease, made under sub-section (1), the State Government shall, having regard to the nature of the loss caused to the lessee, compensate the lessee in such manner as may be prescribed by the Central Government.

(3) A person aggrieved by an order under sub-section (1) or sub-section (2) may apply to the National Mining Tribunal in case of major minerals and the State Mining Tribunal in case of minor minerals, for revision, modification or cancellation of such order, and the National Mining Tribunal or the State Mining Tribunal, as the case may be, may pass such order as may be appropriate.

Mine Closure  
Plan.

32. (1) Every mining lease shall have a Mine Closure Plan prepared in terms of a Sustainable Development Framework, which shall consist of—

- (i) a progressive mine closure plan for each mine; and
- (ii) a final mine closure plan.

(2) Every Mine Closure Plan shall be available for inspection by the public in the office of the authority competent to approve such a Plan, and also in the office of the Panchayat having jurisdiction and such other places as may be notified.

(3) A Progressive Mine Closure Plan shall be prepared for each mine for a period of five years at a time commencing with the period of the lease, and for every period of five years thereafter, in such manner as may be prescribed by the Central Government:

Provided that the Progressive Mine Closure Plan shall include details of closure, rehabilitation and restoration activities proposed to be carried out in the five years period and the projected investments in this respect, and except in the case of the first progressive mine closure plan, the details of activities actually carried out and the expenditure incurred in each of the preceding progressive closure plans.

(4) The lessee shall submit the Progressive Mine Closure Plan to the Indian Bureau of Mines and the State Directorate in the case of major minerals other than coal and atomic minerals, to the Coal Controller in case of coal minerals, and to the Atomic Minerals Directorate in case of atomic minerals, and to the State Directorate in the case of minor minerals and a copy thereof shall be sent to the Panchayats of the area:

Provided that in respect of a mining lease for a minor mineral for which a mining plan has been dispensed with under sub-section (1) of section 26, the State Government in consultation with the Indian Bureau of Mines may, having regard to the nature of the mineral, exempt any such lease from preparing a Mine Closure Plan, subject to suitable provision in the mining Framework in respect of that mineral in such manner as may be prescribed by the Central Government, and the mining framework shall be deemed to be the Progressive Mine Closure Plan and the Final Mine Closure Plan for the purposes of this Act.

(5) The Indian Bureau of Mines or the Coal Controller or the Atomic Mineral Directorate, or the State Directorate as the case may be shall, after consulting the concerned Panchayats convey its approval or disapproval to the Progressive Mine Closure Plan within a period of ninety days from its receipt:

Provided that in case the approval or disapproval is not communicated within the said period, the Progressive Mine Closure Plan shall be deemed to have been approved on a provisional basis till such approval or disapproval is conveyed.

(6) No mining operation shall be carried out in a mine in respect of which a Progressive Mine Closure Plan has not been approved, or in a manner contrary to the approved Progressive Mine Closure Plan:

Provided that the authority responsible for approving the Progressive Mine Closure Plan may at any time inspect the mining operations to satisfy itself in this regard, and may issue any direction necessary to ensure compliance to the provisions of the Plan.

(7) A Final Mine Closure Plan shall be prepared for lease area in such manner as may be prescribed by the Central Government, and approved by the authority competent to approve the Progressive Mine Closure Plan in respect of the mine.

(8) Without prejudice to the generality of this section, the Final Mine Closure Plan shall be based on the land use planned for the lease area after its closure, and shall include measures to reduce hazards, improve productivity and ensure that it supports the needs of the host population:

Provided that the land use planned for the mining lease area after the closure of mine shall be decided in consultation with the Panchayats having jurisdiction, in such manner as may be prescribed by the Central Government.

(9) The Final Mine Closure Plan shall be revised for every five years having regard to the progress of mining operations and be submitted alongwith every Progressive Mine Closure Plan.

(10) The Final Mine Closure Plan for the last five years period of the lease shall be approved with such modification as may be specified by the authority approving the Progressive Mine Closure Plan after consultation with the Panchayat concerned, within a period of one year:

Provided that in the case where the lease is extended under the provisions of sub-section (1) of section 8 of the Act, the lessee shall submit a Progressive Mine Closure Plan for the next five years in accordance with the provisions of this Act along with a Final Mine Closure Plan in accordance with the provisions of this section and the last five years shall be reckoned with reference to the extended period.

(11) The manner of preparation and implementation of the mine closure plan for Coal minerals and atomic minerals shall be such as may be prescribed by the Central Government.

(12) Every progressive and final mine closure plan referred to in sub-section (1) shall be prepared by a qualified firm or other association of persons or company accredited in this behalf in accordance with the provisions of sub-section (5) of section 26 in terms of a Sustainable Development Framework as may be notified by the Central Government under sub-section (2) of section 46.

Closure.

33. (1) The lessee shall not determine the lease or part thereof unless a final mine closure plan, approved by the Indian Bureau of Mines in respect of major minerals other than coal minerals and atomic minerals, or any authority as may be designated by the Central Government in respect of coal minerals or atomic minerals, or the State Directorate in respect of minor minerals, as the case may be is duly implemented by the lessee.

(2) For the purposes of sub-section (1), the lessee shall be required to obtain a certificate from the Indian Bureau of Mines, the Atomic Minerals Directorate or the authority as may be designated by the Central Government in respect of coal minerals or the State Directorate in respect of minor minerals, as the case may be, to the effect that protective, reclamation, restoration and rehabilitation work in accordance with the approved mine closure plan or with such modifications as approved by the competent authority have been carried out by the lessee.

(3) In every case where a lessee has made default in implementing a progressive Mine Closure Plan, the State Government may by an order suspend the mining operation till the default is remedied and may demand additional security so as to ensure deposit of security to the extent of the maximum specified under sub section (1) of section 24 for the remaining period of the lease, and for any or all other leases of the lessee for reasons to be specified in a show cause notice, and in case the lessee fails to show adequate cause, or fails to furnish the additional security, as the case may be, within a reasonable period not exceeding thirty days, the State Government may determine the lease in respect of which such security was not furnished.

(4) If the lessee makes default in implementing the final Mine Closure Plan or abandons a mine, without prejudice to any action under section 53, the State Government may after serving a notice to the lessee, cause the plan to be implemented by such other authority as it may direct, at the cost of the lessee, that the lease may be determined in such manner as may be prescribed by the Central Government and the lessee shall be declared to be ineligible for the purpose of any mineral concessions under this Act.

## CHAPTER VI

### MINERAL CONCESSION IN CASES WHERE MINERALS DO NOT VEST EXCLUSIVELY WITH GOVERNMENT

Applications  
in case  
minerals vest  
with private  
persons.

34. Applications for mineral concessions in respect of any mineral which vest exclusively in a person other than the Government shall be made to such person and all mineral concessions be granted subject to the provisions of this Act and the rules made thereunder.

Mineral  
concessions to  
be in form of  
a registered  
deed.

35. A mineral concession granted in accordance with the provisions of section 34 shall be in the form of a registered deed executed by the parties on such terms and conditions as may be agreed, not inconsistent with the provisions of this Act or the rules made thereunder, and an authenticated copy of the deed shall be deposited by the person granted the mineral concession with the State Government and the Indian Bureau of Mines before commencing operations:

Provided that notwithstanding anything contained in such deed to the contrary, it shall be lawful for the State Government to issue any direction to the leaseholder or to the person in whom the minerals vest, in accordance with the provisions of this Act.

Cases where  
minerals vest  
partly with  
Government.

36. In respect of lands where minerals vest partly in the Government and partly with a private person, the provisions of this Act shall apply in the same manner as they apply in respect of land where minerals vest exclusively with the Government:

Provided that the dead rent and royalty payable in respect of minerals which vest partly in Government and partly in private person shall be shared by the Government and by that person in proportion to the share they have in the minerals.

## CHAPTER VII

### RESERVATION

37. (1) The State Government with the prior approval of the Central Government, or the Central Government after consultation with the State Government, may reserve for purposes of mineral conservation any area not already held under a high technology reconnaissance-cum-exploration license, a prospecting licence or mining lease, and shall notify the reservation specifying the reasons and the period of reservation shall be for a period of not less than ten years:

Reservation of areas for conservation of mineral resources.

Provided that the period may be extended from time to time in the public interest, for such period as may be notified in the same manner in which it was reserved.

(2) No application for mineral concession shall be entertained in respect of an area reserved under sub-section (1), and any such application is deemed to have never been made.

(3) An area reserved for purposes of mineral conservation shall not be used for such purposes during the period of the reservation that is contrary to the object of such reservation.

67 of 1957.

38. Subject to the provisions of section 37, all areas reserved under the Mines and Minerals (Development and Regulation) Act, 1957, as it stood before its repeal, and the rules made thereunder, shall continue to be reserved under this Act for a period of ten years from the date of the commencement of this Act or up to the date specified in such reservation order, whichever is earlier.

Saving of reserved areas.

39. On the expiry of the period of reservation under section 37 or section 38, or such earlier date as may be notified by the Central Government or the State Government, as the case may be, an area reserved under section 37 or section 38, as the case may be, shall be deemed to be available for grant of the mineral concessions after a lapse of thirty days or from such earlier date as may be notified for the purpose.

Expiry and revocation of reservation.

40. (1) Where the Central Government is of the opinion that any mineral or a particular grade of mineral needs to be conserved in view of its strategic value, it may, by notification, ban the grant of mineral concession in respect of that mineral or a particular grade of mineral or impose such restrictions on grant of mineral concessions or operation of such concession as may be specified in the said notification:

Conservation of mineral.

Provided that such a ban or restriction shall not apply in respect of applications for grant of mining leases under sub-section (3) of section 25.

(2) The notification referred to in sub-section (1) shall be for a period of not less than ten years.

(3) The Central Government may renew the notification, as referred to in sub-section (1), for a further period not less than ten years.

## CHAPTER VIII

### ROYALTIES, COMPENSATION AND CESS

41. (1) The holder of a mining lease, whether granted before or after the commencement of this Act shall, notwithstanding anything in the instrument of lease or in any other law for the time being in force, pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee or contractor from the leased area.

Royalty payable in respect of minerals.

(2) The rate of royalty in respect of major minerals shall be such as specified in the Second Schedule to this Act:

Provided that concessional rates of royalty may be specified for such cases where the lessee beneficiates the mineral at the ore stage.

(3) The Central Government may, after taking into consideration the report and recommendations of the National Mining Regulatory Authority, by notification, amend the Second Schedule to enhance or reduce the rate specified therein with effect from such date as may be specified in the notification:

Provided that the Central Government shall not enhance the rate of royalty in respect of any major mineral more than once during any period of three years.

(4) The State Government may, by notification from time to time, declare the rate at which royalty shall be payable in respect of minor minerals:

Provided that the State Government shall not enhance the rate of royalty in respect of a minor mineral more than once during any period of three years.

(5) Notwithstanding anything contained in this Act, the provisions of sub-section (1) shall not apply to or in relation to mining leases granted before the 25th day of October, 1949, in respect of coal, but the Central Government, if it is satisfied that it is expedient so to do, may, by notification, direct that all or any of the provisions of this Act or the rules made thereunder apply to or in relation to such leases subject to such exceptions and modifications, if any, as may be specified in that notification.

Dead rent payable by lessee.

42. (1) The holder of a mining lease, whether granted before or after the commencement of the Act, shall, notwithstanding anything contained in the instrument of lease or in any other law for the time being in force, pay every year, dead rent at such rate as may be specified, for all the areas included in the instrument of lease.

(2) Where the holder of such mining lease becomes liable under section 41 to pay royalty for any mineral removed or consumed by him or by his agent, manager, employee or contractor from the leased area, he shall be liable to pay either such royalty, or the dead rent in respect of that area, whichever is higher.

(3) The dead rent in respect of mining leases for major minerals shall be as specified in the Third Schedule and the Central Government may, after taking into consideration the recommendations of the National Mining Regulatory Authority, by notification, amend the Third Schedule so as to enhance or reduce the rate at which the dead rent shall be payable in respect of any area covered by a mining lease and such enhancement or reduction take effect from such date as may be specified in the notification:

Provided that the Central Government shall not enhance the rate of the dead rent in respect of any such area more than once during any period of three years.

(4) The State Government may by notification from time to time, declare the rate at which dead rent shall be payable in respect of minor minerals:

Provided that the State Government shall not enhance the rate of the dead rent in respect of any such area more than once during any period of three years:

Provided further that in respect of such portion of a lease as is for both major and minor minerals, dead rent if payable, shall be the higher of the two dead rents.

(5) In order to encourage mining of small deposits in cluster, dead rent for the area shall be determined having regard to the actual area required for mining operations.

Payment of compensation to owner of surface, usufruct and traditional rights, damage, etc.

43. (1) In respect of land in which minerals vest in the Government, the holder of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence or prospecting licence shall be liable to pay, to every person or family holding occupation or usufruct or traditional rights of the surface of the land over which the licence has been granted, such reasonable annual compensation as may be mutually agreed between the holder of such licence and such persons or in the absence of such agreement, which may be determined by an officer appointed, by notification, by the State Government in this behalf in such manner as may be prescribed by the State Government:



Provided that such amount shall be determined before commencement of operations and paid in advance each year, in such manner as may be prescribed by the State Government.

(2) The holder of a mining lease shall pay annually to the District Mineral Foundation, as referred to in section 56,—

(a) in case of major minerals (except coal and lignite) an amount equivalent to the royalty paid during the financial year;

(b) in case of coal and lignite, an amount equal to twenty-six per cent. of the profit to be called as profit sharing percentage (after deduction of tax paid) of the immediately preceding financial year from mining related operations in respect of the lease; and

(c) in case of minor minerals, such amount as may be prescribed by the State Government with the concurrence of the National Mining Regulatory Authority referred to in section 58,

within such time and in such manner as may be prescribed by the State Government for the benefit of persons or families affected by mining related operations:

Provided that in respect of coal minerals the Central Government may, after taking into consideration the report and recommendations of the National Mining Regulatory Authority, by notification, revise the profit sharing percentage, or specify such other method as may be prescribed for calculation of amount to be paid to the District Mineral Foundation:

Provided further that in case where the holder of a mining lease for major minerals has commenced mining related operations but has not commenced production, the holder of a mining lease shall pay into the District Mineral Foundation, an amount equal to the royalty payable on the production estimated in the first twelve months of the year as per the approved mining plan:

Provided also that in case the holder of a mining lease for major minerals,—

(a) was not in production for a part of a particular year, he shall be liable to pay the amount in the second proviso on pro-rata basis for the period during which he had not commenced any such operations;

(b) discontinues production for a part of a particular year, he shall be liable to pay the amount equal to the royalty on actual production of the corresponding period of the previous financial year.

1 of 1956.

(3) Notwithstanding anything in sub-section (2), and the Companies Act, 1956, or any other law for the time being in force, where the holder of mining lease is a company, it shall also allot at least one share at par for consideration other than cash to each person of the family affected by mining related operations of the company and such shares shall be non transferable.

(4) The articles of association of the company, referred to in sub-section (3) shall contain provisions enabling the company to allot shares in accordance with the provisions of sub-section (3).

(5) Notwithstanding anything in sub-section (2) and sub-section (3), the holder of a mining lease shall, in respect of any person or family holding occupation or usufruct or traditional rights of the surface of the land over which the lease has been granted, be liable to provide employment or other assistance in accordance with the rehabilitation and resettlement policy of the State Government concerned.

(6) The amount payable under this section shall be in addition to any other amount or compensation payable to the person or family holding occupation or usufruct or traditional rights of the surface of the land under any other law for the time being in force.

(7) After the termination of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence or a mining lease, the State Government shall after giving the person or family holding occupation or usufruct or traditional rights of the surface of the land an opportunity of being heard, assess the damage, if any, done to the land by the reconnaissance or prospecting or mining related operations and determine the amount of compensation payable by the licensee or the

lessee, as the case may be, to the person or family holding occupation or usufruct or traditional rights of the surface of the land in such manner as may be prescribed by the State Government:

Provided that in case the licensee or lessee and the person or family holding occupation or usufruct or traditional rights mutually agree on the compensation, and communicate the same to an officer appointed by the State Government in this behalf, the State Government may, accordingly, determine the compensation.

(8) In case, —

(a) the licensee fails to make payment to the persons holding occupation or usufruct or traditional rights in terms of sub-section (1), the State Government may forfeit the security deposit and make payment therefrom, and may recover any balance amount as provided in section 118 of this Act, and may also declare the licensee or lessee ineligible for the purposes of any mineral concessions under this Act;

(b) the lessee fails to make payment to the District Mineral Foundation in terms of sub-section (2), the State Government may initiate necessary proceedings to recover the arrears and may also take action against the lessee for non compliance of conditions of the lease in accordance with the provisions of sub-section (4) of section 24;

(c) the lessee or the licensee, as the case may be, fails to pay the compensation within three months of its determination under section 30, the State Government may on an application made to it by the aggrieved person, either forfeit the security deposit and make payment therefrom, or may recover the amount as provided in section 118 of this Act, and may also declare the licensee or lessee ineligible for the purposes of any mineral concessions under this Act.

(9) Where there is a dispute as to whether a person or family holds occupation or usufruct or traditional rights, the Collector of the District may after consulting the Gram Sabha, or the Gram Panchayat or District Council, as the case may be, make a determination which shall be binding for the purposes of this Act.

(10) (a) The State Government shall cause identification of the person or families affected by mining related operations in such manner as may be prescribed by the State Government.

(b) The amount of monetary benefit may be determined by the State Government for each district where mining operations are being undertaken, having regard to the nature and extent to which such person or family is affected by mining related operations and for improving the quality of life of the affected person or family, and such amount of monetary benefit shall not be less than the amount a family may be entitled under the provisions of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 :

42 of 2005.

Provided that till the amount of monetary benefit is determined by the State Government, the amount of monetary benefit shall be equal to an amount that such a family may be entitled under the provisions of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005.

42 of 2005.

(c) The State Government shall ensure that monetary benefits under this Act are distributed to the persons or families in areas affected by mining related operations through a mechanism prescribed by the State Government:

Provided that in case of a family not headed by a woman, the State Government shall ensure that half the amount of monetary benefits distributed to families in areas affected by mining operations shall accrue to the eldest women member of the family.

(11) For the purposes of this section, in case of a mining lease already granted on or before the date of commencement of this Act, the date for identification of person or families affected by mining related operations shall be reckoned as first January Nineteen Hundred and Ninety Seven.

*Explanation.*— For the purposes of this section,—

(a) a “family” shall comprise of mother, father and their children or any person wholly dependent on the head of the family, including any lineal ascendant or descendant of the head of the family or his spouse; and

(b) a “family” may also be single member family.

44. (1) The Central Government may, by notification, specify, that there shall be levied and collected a cess on major minerals for the purposes of this Act,—

Levy and collection of cess by Central Government.

(a) as a duty of customs, where the ore is exported;

(b) as a duty of excise, where the ore is sold or otherwise disposed to an end-user or to any other person who in turn sells it to an end-user, or is used by the owner of the mine in any end-use by himself, at such rate not exceeding two and one-half per cent. of the duty as may be specified in the notification by the Central Government:

Provided that the rate shall not be increased more than once during any period of five years.

(2) Every cess leviable under sub-section (1) on major minerals shall be payable by the person by whom such major minerals are produced, and in the case of export, the cess shall be payable by the exporter.

(3) The cess leviable under sub-section (1) on the major mineral shall be in addition to any cess or duty leviable on those items under any other law for the time being in force.

1 of 1944.  
52 of 1962.

(4) The provisions of the Central Excise Act, 1944 and the rules made thereunder and the provisions of the Customs Act, 1962 and the rules made thereunder, as the case may be, including those relating to refunds and exemptions from duties shall, as far as may be, apply in relation to the levy and collection of cess leviable under this section and for this purpose, the provisions of the Central Excise Act, 1944 and of the Customs Act, 1962, as the case may be, shall have effect as if the aforesaid Acts provided for the levy of cess on major minerals.

(5) Every person or company or firm or association of persons using or trading in or exporting or stocking major minerals shall register himself or itself with the Indian Bureau of Mines in such manner as may be prescribed by the Central Government:

Provided that in case of coal minerals, the administration of registration shall be done by the Central Government.

45. (1) The State Government may, by notification specify, that there shall be levied and collected a cess on major minerals and minor minerals extracted at a rate not exceeding ten per cent. of the royalty in such manner as may be prescribed by the State Government:

Levy and collection of cess by State Government.

Provided that the rate shall not be increased more than once during any period of five years.

(2) The cess shall be paid by the person holding the mining lease for major minerals or minor minerals, as the case may be:

Provided that where the minerals vest in a person other than the Government, and the holder of the mining lease fails to pay the cess, the person in whom the minerals vest shall, on demand, pay the amount of the cess.

## CHAPTER IX

### POWER TO ISSUE DIRECTIONS

46. (1) The Central Government shall take all such steps as may be necessary for the conservation of strategic mineral resources in the national interest and for the scientific development and exploitation of all mineral resources.

Power of Central Government to issue directions in the interest of scientific mineral exploration and mining and sustainable development.

(2) The Central Government in order to facilitate the scientific development and exploration of mineral resources and to ensure the protection of the environment and prevention and control of pollution from prospecting and mining related operations, shall cause to be developed a National Sustainable Development Framework in consultation with the State Governments.

(3) The State Government may with the previous approval of the Central Government frame a State Sustainable Development Framework not inconsistent with the National Sustainable Development Framework.

(4) The National Sustainable Development Framework shall contain guidelines enabling formulation of project-level practices for sustainable mining, and include the following, namely:—

(i) specification of factors and parameters influencing sustainable and scientific mining;

(ii) broad criteria beyond which mining may not be deemed sufficiently sustainable or scientifically manageable;

(iii) systemic measures needed to be taken or built-in to increase sustainability of mining operations considering its entire life cycle, *inter alia*,—

(a) ensuring minimal adverse impact on quality of life of the local communities;

(b) protecting interests of affected persons including host population;

(c) creating new opportunities for socio-economic development including for sustainable livelihood;

(d) mineral conservation both in terms of mining technologies or practices and mineral beneficiation;

(e) reduction in waste generation and related waste management practices and promotion of recycling of materials;

(f) minimising and mitigating adverse environmental impacts particularly in respect of ground water air, ambient noise and land;

(g) ensuing minimal ecological disturbance, in terms of bio-diversity, flora, fauna and habitat;

(h) promoting restoration and reclamation activities so as to make optimal use of mined out land for the benefit of the local communities;

(i) measurable indicators of sustainable development;

(j) consultative mechanisms with stakeholder groups right from pre-mining stages through the life cycle and up to post-closure stages to ensure stakeholder groups involvement and participation in identifying and addressing the sustainability issues; and

(k) system of public disclosure of mining related activities and environmental parameters including indicators and mechanisms to facilitate formal and informal sustainability audits.

(5) The Central Government may, from time to time specify the guidelines for scientific mining and mineral conservation within a Sustainable Development Framework and the State Directorate shall be responsible for implementation of the Sustainable Development Framework in the State:

Provided that the State Government may, with the previous approval of the Central Government, confer all or any of the functions of the State Directorate on any other specialised agency for the purpose of better implementing the Sustainable Development Framework.

(6) The Central Government may issue general directions as may be required, consistent with the provisions of the Act to the State Governments or the National Authority referred to in section 58 or to any authority under the Central Government or the State Government, as the case may be, for the conservation of strategic mineral resources or any policy matter in the national interest and for the scientific and sustainable development and exploration of mineral resources and recycling of such resources to the extent practicable, and detection,

prevention and prosecution of cases of illegal mining, and to frame rules for the purpose and all such directions shall be complied with to the extent possible.

(7) Without prejudice to the provisions of this section, the Central Government for the purpose of scientific management and exploration of mineral resources, may prescribe a framework for disclosure of information related to mineral resources and their exploration and exploitation, and recycling including the development of websites and Portals and databases; and such framework shall specify the nature and extent of the information required to be disclosed and the person or authority responsible for such disclosure and any such person or authority shall comply except where the information is of a nature that is exempted under section 8 of the Right to Information Act, 2005 in relation to a public authority.

22 of 2005.

47. (1) The State Government may, in the interest of systematic development of mineral deposits, conservation of minerals, scientific mining, sustainable development and protection of the environment, issue directions to the owner, agent, mining engineer, geologist or manager of a mine.

Power of State Government to issue directions generally.

(2) Every direction issued under sub-section (1) shall be complied within such period as may be specified, not being a period of less than one week:

Provided that where there is difficulty in giving effect to any direction, the owner, agent, mining engineer, geologist or manager of the mine, as the case may be, may apply for modification or rescinding of such direction and the State Government, may either modify or rescind the direction or confirm it:

Provided further that in case the State Government does not pass any order modifying or rescinding such direction within a period of thirty days from the date of application, the direction shall be deemed to have been confirmed.

(3) Any direction issued under sub-sections (1) and (2) shall be issued in consultation with the Indian Bureau of Mines in such classes of cases as may be prescribed by the Central Government.

(4) Any person aggrieved by a direction or order under this section may apply to the National Mining Tribunal in case of major minerals under section 85 or the State Mining Tribunal in case of minor minerals under section 99, as the case may be.

48. (1) Where the Central Government is of the opinion that for the purpose of conservation of strategic mineral resources or for the scientific management, exploration and exploitation of mineral resources it is expedient to conduct a technical or scientific investigation with regard to any mineral or any land including lands in relation to which mineral concessions may have been granted, the Central Government may authorise the Geological Survey of India or the Indian Bureau of Mines or the Atomic Minerals Directorate or such other authority as it may specify in this behalf, to carry out such technical or scientific investigation as may be necessary, and to submit a report within such period as may be specified:

Power to authorise Geological Survey of India and Indian Bureau of Mines, Atomic Minerals Directorate, etc., to investigate and report.

Provided that no such authorisation shall be made in the case of any land in which mineral concession has been granted, except after consultation with the State Government where minerals vest in the State Government and with the person in whom the mineral vests in other cases.

(2) On issue of an authorisation under sub-section (1), it shall be lawful for the Geological Survey of India, the Indian Bureau of Mines, the Atomic Mineral Directorate or the specified authority or agency, and its employees,—

- (a) to enter upon such land;
- (b) to dig or bore into the sub-soil, conduct studies and take samples;
- (c) to do all other acts necessary to determine the nature and extent of any mineral available in or under such land;

(d) to set out boundaries of the land in which any mineral is expected to be found, and to mark such boundaries and line by placing marks; and

(e) where otherwise the survey cannot be completed on the boundaries and line marked, to cut down and clear away any part to any standing crop, fence or jungle with the approval of the authority concerned:

Provided that no such authority or agency, as the case may be, shall enter into any building or upon any enclosed court or garden attached to a dwelling-house without previously giving such occupier at least seven days' notice in writing of its intention to do so.

(3) Whenever any action of the nature specified in sub-section (2) is to be taken, the Central Government shall, before or at the time when such action is taken, pay or tender payment for the damage which is likely to be caused, and in case of dispute as to the sufficiency of the amount so paid or tendered or as to the person to whom it shall be paid or tendered, the Central Government shall refer the dispute to the Collector of the District in which the land is situated for determination.

(4) The fact that there exists any such dispute, as is referred to in sub-section (3), shall not be a bar to the taking of any action under sub-section (2).

(5) After the completion of the investigation, the Geological Survey of India, the Indian Bureau of Mines, the Atomic Minerals Directorate or the specified authority or agency by which the investigation was made shall submit a report to the Central Government indicating therein the nature and extent of any mineral which lies deposited in or under the land and such other information as may be necessary.

(6) The costs of the investigation made under this section shall be borne by the Central Government:

Provided that any portion of the cost may be paid out of the National Mineral Fund in accordance with the provisions of section 50.

(7) The Central Government may, having regard to the utility of the report submitted under sub-section (5), and the public interest, make available the report to such persons and at such cost and in such manner as may be prescribed by the Central Government.

Power of the Indian Bureau of Mines, Coal Controller, Atomic Minerals Directorate and State Directorate to issue certain directions and to seek information.

49. (1) The Indian Bureau of Mines, the Coal Controller, the Atomic Minerals Directorate or the State Directorates or any officer authorised by the Central Government or the State Government, as the case may be, may enter and inspect a mine, and examine or direct the examination of any mineral deposit in any area under prospecting licence or mining lease and take samples therefrom at any time for the purposes of this Act.

(2) If any mine or part thereof, which in the opinion of the Indian Bureau of Mines, the Coal Controller, the Atomic Minerals Directorate or the State Directorate, poses a grave and immediate threat to the conservation of mineral resources or to the environment, it may, by an order in writing to the owner, agent, mining engineer or manager, require him to take such measures as may be specified in the order and may prohibit, until the requirements as specified in the order are complied with to its satisfaction, the deployment of any person other than those required for compliance with the requirement of the order.

(3) The Indian Bureau of Mines, the Coal Controller, the Atomic Minerals Directorate or the State Directorate, as the case may be, may by a general or specific order require the cores or specimens of rocks and minerals obtained from specified boreholes or shafts during prospecting or mining operation conducted under this Act, to be preserved for any specific period.

(4) Every holder of a prospecting licence or a mining lease shall provide all reasonable facilities to persons authorised by the Indian Bureau of Mines, the Coal Controller, the Atomic Minerals Directorate and the State Directorate for the purpose of undertaking research or training in matters relating to mining or geology.

(5) The holder of a non-exclusive reconnaissance licence, high technology exclusive cum reconnaissance exploration licence, prospecting license or mining lease, or his agent shall furnish such information regarding his reconnaissance or exploration or prospecting or mining operations or regarding the mine or any matter connected therewith as the Indian Bureau of Mines, the Coal Controller, the Atomic Minerals Directorate or the authorised officer of the Central Government or the State Government, as the case may be, may require by an order in writing and the information shall be furnished within such time and such period as may be specified in the aforesaid order.

## CHAPTER X

### NATIONAL, STATE MINERAL FUND AND DISTRICT MINERAL FOUNDATION

50. (1) The Central Government shall, by notification, establish a fund to be called the National Mineral Fund for the purposes of this Act.

National  
Mineral Fund.

(2) The proceeds of the cess levied under sub-section (1) of section 44 shall first be credited to the Consolidated Fund of India, and the Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Mineral Fund from time to time, after deducting the expenses of collection, for being utilised exclusively for the purposes of sub-section (3).

(3) The amount standing to the credit of the National Mineral Fund shall be utilised for—

(a) making grants to the National Mining Regulatory Authority and the National Mining Tribunal of such sums of money as are required to pay salaries and allowances payable to the Chairperson and the members and the administrative expenses including the salaries, allowances and pension payable to or in respect of officers and other employees of the Authority and the Tribunal;

(b) promoting scientific management of mining activities and mine closures, including research and development and training;

(c) research and development in sustainable mining and recycling of resources;

(d) developing capacity of the Indian Bureau of Mines or office of the coal controller, and any other agency as may be determined by the Central Government to enforce the provisions of this Act;

(e) detecting and preventing illegal mining including commissioning of surveys and studies, and developing awareness amongst local communities and the mining sector;

(f) investigations for the conservation and scientific management, of mineral resources in accordance with the provisions of section 48 of the Act;

(g) promotion of information technology applications in support of the mining and minerals sector;

(h) providing grants-in-aid for promoting techno-economic studies for the mineral sector; and

(i) providing grants-in-aid for holding of and participation in National or International minerals and mining workshops, conferences and promotional events.

51. (1) The National Mineral Fund shall be under the control of the Central Government, and the balance to the credit of the National Mineral Fund not lapse at the end of the Financial Year.

Administra-  
tion and  
Management  
of Fund.

(2) The Central Government shall be responsible for the administration and management of the National Mineral Fund.

(3) The Central Government for the purpose of this Act may,—

(a) formulate criteria for allocation of funds for such projects which are required to be implemented;

(b) approve schemes and sanction grants and loans from the National Mineral Fund to institutions and authorities as may be decided and monitor their utilisation; and

(c) implement directly or through the Geological Survey of India or the Indian Bureau of Mines or coal controller or any other agency as may be determined by the Central Government, projects for the purposes of sub-section (3) of section 50 and for this purpose it may authorise the Director General, Geological Survey of India and the Controller General, Indian Bureau of Mines to incur such expenditure from the National Mineral Fund as may be necessary in this regard.

Audit of  
Accounts of  
National  
Mineral Funds.

52. (1) The Central Government shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account and the balance-sheet in respect of the National Mineral Fund in such form, as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the National Mineral Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

State Mineral  
Fund.

53. (1) The State Government may, by notification, establish a fund to be called the State Mineral Fund for the purposes of this Act.

(2) The proceeds of the cess levied under sub-section (1) of section 45 shall first be credited to the Consolidated Fund of the State and the State Government may, if the Legislature of the State by appropriation made by law in this behalf so provides, credit by way of grants or loans such sums of money as the State Government may consider necessary to the State Mineral Fund from time to time, after deducting the expenses of collection, for being utilised exclusively for the purposes of sub-section (4).

(3) The State Mineral Fund shall be held and administered on behalf of the State Government in such manner and by such authority as may be prescribed by the State Government.

(4) The amount standing to the credit of the State Mineral Fund shall be utilised for,—

(a) developing capacity of the State Directorate to achieve the objects of this Act;

(b) promotion of information technology applications in support of the mining and mineral sector;

(c) setting up and operation of Special Courts under section 105 of the this Act;

(d) setting up and operation of the State Mining Regulatory Authority and the State Mining Tribunal under section 70 and section 89 respectively;

(e) financial assistance to the District Mineral Foundations by way of loan, capital grants or other payment;

(f) compensating lessees whose leases are prematurely terminated under section 31 of this Act;

(g) prevention and detection of illegal mining, including expenditures incidental to enforcement of the provisions of section 114 of this Act and to reward whistle-blowers on illegal mining;

*Explanation.*—For the purposes of this section a whistle-blower is a person who provides credible information of illegal mining;

(h) such other public purposes in relation to the objects of the Act, as may be deemed expedient by the State Government from time to time.

(5) Without prejudice to the generality of the foregoing provisions, the State Government may sanction grants out of the State Mineral Fund to an authority for



implementation of a mine closure plan under sub-section (4) of section 33 and cause the recovery of the cost thereof from the lessee in accordance with the provisions of section 118 and deposit the same into the State Mineral Fund.

54. (1) The State Mineral Fund shall be under the control of the State Government, and the balance to the credit of the State Mineral Fund shall not lapse at the end of the Financial Year.

Administra-  
tion and  
management  
of State  
Mineral Fund.

(2) The State Government shall be responsible for the administration and management of the State Mineral Fund.

(3) The State Government for the purposes of this Act may,—

(a) formulate criteria for allocation of funds for such projects which are required to be implemented;

(b) implement directly or through the State Directorate by way of grant-in-aid, projects for the purposes of sub-section (4) of section 53 and for this purpose, may authorise the Director of the State Directorate to incur such expenditure from the State Mineral Fund as may be necessary in this regard.

55. (1) The State Government shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account and the balance-sheet in respect of the State Mineral Fund in such manner, as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

Audit of  
accounts of  
State Mineral  
Fund.

(2) The accounts of the State Mineral Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

56. (1) The State Government shall, by notification, establish a trust to be called the District Mineral Foundation, a non-profit body, in each district in the State where a mining lease has been granted or is in operation, in the manner as may be prescribed by the State Government.

Establishment  
of District  
Mineral  
Foundation.

(2) The object of the District Mineral Foundation shall be to work for the interest and benefit of persons or families affected by mining related operations in the district.

(3) The Governing Council of the District Mineral Foundation shall be responsible for,—

(a) distribution of monetary benefit to persons or families affected by mining related operations in the district; and

(b) undertaking such other activities as are in furtherance of the object of the Foundation, including creation, management and maintenance of such local infrastructure for socio-economic purposes in areas affected by mining related operations and facilitating the implementation of the Sustainable Development Framework.

(4) The State Government may give financial assistance to any District Mineral Foundation by way of loan, capital grants or other payments.

(5) The State Government shall maintain a register, which shall be open to the members of the public for inspection at any reasonable time, containing the following in relation to each District Mineral Foundation,—

(a) a copy of the current constitution;

(b) a copy of the latest annual accounts and of any report of the auditor of the accounts of the District Mineral Foundation; and

(c) a copy of the latest annual report of the District Mineral Foundation.

(6) The amount standing to the credit of the District Mineral Foundation shall be utilised, in the following order of priority, namely:—

(i) payment of monetary benefits payable monthly or quarterly to members of the family of the person holding occupation or usufruct or traditional rights in areas affected by mining related operations:

Provided that the State Government may make a scheme to systematically regulate the amount of payment of monetary benefits to different categories based on the nature and extent to which they are affected by the mining related operation;

(ii) such other expenditure as may be prescribed by the Central Government subservient to the objects of the Foundation;

(iii) payment of administrative expenses necessary for working of the District Mineral Foundation, not exceeding five per cent. of the total annual payment received by it in a financial year.

Governing  
Council.

57. (1) The District Mineral Foundation shall be managed by a Governing Council which consists of,—

(a) District Magistrate — Chairperson;

(b) Chairperson of the District Panchayat or District Council, as the case may be—Member;

(c) all holders of mining lease in the district—Members;

(d) head of local offices of Departments concerned of the State Government—Members;

(e) at least three representatives nominated by the District Magistrate in consultation with the Chairperson of the District Panchayat or District Council, as the case may be, from amongst the affected persons or families in the areas affected by mining operations, in the manner as may be prescribed by the State Government—Members;

(f) representative of the Indian Bureau of Mines— Member;

(g) District Mining Officer— Secretary:

Provided that in the areas specified in the Fifth Schedule of the Constitution, where there is no District Panchayat, the Chairperson of each of the Panchayats at intermediate level, and where there is no Panchayat at intermediate level, the Chairperson of the Village Panchayats within whose jurisdiction the mining operations are undertaken shall be included as a member.

(2) The Governing Council for the District Mineral Foundation shall be responsible for,—

(a) drawing-up the annual budget for utilisation of the fund available with the Foundation;

(b) approving the disbursal of the amounts to the entitled persons or families affected by mining related operations; and

(c) approving such other expenditure, in furtherance of the objects of the Foundation, from the Fund available with the District Mineral Foundation in such manner as may be prescribed by the Central Government.

(3) The District Mineral Foundation shall, at the end of each year, prepare an Annual Report in respect of the activities undertaken under the fund available with the District Mineral Foundation, and shall forward it to the State Government, which shall forthwith cause the Report to be published on the Government website.

(4) The District Mineral Foundation shall maintain a register giving details of,—

(a) the list of lease holders in the district and the annual payments made by them to the District Mineral Foundation; and

(b) the disbursal of benefits to the affected persons;

(c) annual audited accounts of the District Mineral Foundation,

and the same shall be available on the website of the Foundation and for inspection by members of the public.

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(5) For the purposes of the Right to Information Act, 2005, the District Mineral Foundation is deemed to be a public authority.

(6) The District Mineral Foundation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account and the balance-sheet in respect of the fund available with the District Mineral Foundation in such manner, as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(7) The accounts of the District Mineral Foundation shall be audited at such intervals and in such manner as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(8) The accounts of the District Mineral Foundation, as certified by the District Magistrate, together with the audit report thereon shall be forwarded annually to the State Government by the District Mineral Foundation and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

## CHAPTER XI

### NATIONAL MINING REGULATORY AUTHORITY AND STATE MINING REGULATORY AUTHORITY

58. (1) The Central Government shall, by notification, establish a National Authority to be known as the National Mining Regulatory Authority, to exercise the powers conferred on, and to perform the functions assigned to it under this Act in relation to major minerals (other than coal minerals).

Establishment  
of National  
Mining  
Regulatory  
Authority.

(2) The National Authority shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of properties, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the National Authority shall be at New Delhi.

(4) The National Authority may, with the prior approval of the Central Government, establish its offices at any other place in India.

59. (1) The National Authority shall consist of a Chairperson and not more than nine whole time Members to be appointed by the Central Government.

Composition  
of National  
Authority.

(2) The Chairperson of the National Authority may, if considered necessary, invite any one or more persons having specialised knowledge and experience in a particular case to assist the National Authority.

60. (1) A person shall not be qualified for appointment as the Chairperson of the National Authority, unless he,—

Qualification  
for appoint-  
ment as  
Chairperson  
or Member of  
National  
Authority.

(a) is of not less than fifty-eight years of age;

(b) (i) has a post-graduate degree in mining, engineering, technology, science, commerce, humanities or law from a university recognised by the University Grants Commission or a university or institute established by law for the time being in force and special knowledge and experience of not less than three years in matters relating to policy, regulation and operations in extractive industry; or

(ii) has held the post of Secretary or Additional Secretary to the Government of India or any equivalent post in the Central Government or the State Government, as the case may be, having experience of not less than three years in policy or law relating to mines and mineral concessions.

(2) A person shall not be qualified for appointment as a Member, unless he,—

(a) is of not less than fifty-eight years of age;

(b) (i) has a post-graduate degree in mining, engineering, technology, science, commerce, humanities or law from a university recognised by the University Grants Commission or a university or institute established by law for the time being in force and special knowledge and experience of not less than three years in matters relating to policy, regulation and operations in extractive industry or has experience of not less than three years in the field of mining sector at the national level; or

(ii) has held the post of Joint Secretary to the Government of India or any equivalent post in the Central Government or the State Government, as the case may be, having experience of not less than one year in policy or law relating to mines and mineral concessions.

(3) The Chairperson and the Members of the National Authority shall be appointed on the recommendations of the Selection Committee constituted under sub-section (1) of section 61.

(4) The Chairperson or the Members of the National Authority shall not hold any other office during the period of holding his office as such.

(5) The Central Government shall, within a period of one month from the date of occurrence of any vacancy in the office of the Chairperson or Member, by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or completion of the term of office of the Chairperson or any Member, make a reference to the Selection Committee constituted under section 61 for filling up of such vacancy.

Selection  
Committee for  
selection of  
Chairperson  
and Members.

61. (1) The Central Government shall, for the purpose of selection of the Chairperson and Members of the National Authority constitute a Selection Committee, consisting of the following, namely:—

(a) Cabinet Secretary—Chairperson;

(b) Secretary in the Ministry of Mines—Member;

(c) Secretary in the Ministry of Law and Justice—Member.

(2) The Secretary in the Ministry of Mines, Government of India, shall be the Convenor of the meeting of the Selection Committee.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members of the National Authority within one month from the date on which the reference is made to it under sub-section (5) of section 60.

(4) The Selection Committee shall recommend a panel of two names in order of preference for every vacancy referred to it and the Central Government shall make appointment from such panel.

(5) Before recommending any person for appointment as a Chairperson or a Member of the National Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest, which is likely to affect prejudicially his functions as Chairperson or Member, as the case may be.

(6) No appointment of the Chairperson or a Member of the National Authority shall be invalid merely by reason of any vacancy in the Selection Committee.

(7) Subject to the provisions of sub-sections (1) to (6), the Selection Committee may regulate its own procedure.

Term of office,  
salary and  
allowances of  
Chairperson  
and Members  
of National  
Authority.

62. (1) The Chairperson and Member of the National Authority shall hold office for a term of five years from the date on which they enter upon their office or up to the age of sixty-five years, whichever is earlier.

(2) Notwithstanding anything contained in sub-section (1), the Chairperson and every Member shall hold office at the pleasure of the Central Government.

(3) The salary and other allowances payable to, and the other terms and conditions of service of, the Chairperson and other members of, the National Authority shall be such as may be prescribed by the Central Government:

Provided that the salary and other allowances or other terms and conditions of service of the Chairperson and other members of the National Authority shall not be varied to their disadvantage after appointment.

63. The Chairperson or a Member of the National Authority may, by notice in writing under his hand addressed to the Central Government, resign his office: Resignation.

Provided that a Chairperson or a Member of the National Authority shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

64. (1) The Central Government may, by order, remove from office, the Chairperson or any Member of the National Authority, if the Chairperson or such other Member, as the case may be,— Removal or suspension of Chairperson or Members of National Authority.

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) No Chairperson or any other Member of the National Authority shall be removed from office except by an order of the Central Government on the ground of his proved misbehaviour or incapacity after the Central Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Chairperson or Member, as the case may be, ought on any such ground to be removed.

(3) The Central Government may suspend the Chairperson or a Member of the National Authority, as the case may be, in respect of whom an inquiry under sub-section (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

65. (1) In the event of the occurrence of any vacancy in the office of the Chairperson of the National Authority by reason of his death or resignation, the senior-most Member of the National Authority shall act as the Chairperson until the date on which a new Chairperson, appointed in accordance with the provisions of this Act, to fill such vacancy, enters upon his office. Member of National Authority to act as its Chairperson in certain cases.

(2) When the Chairperson of the National Authority is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

66. No act or proceeding of the National Authority shall be invalid merely by reason of— Vacancies, etc., not to invalidate proceedings of National Authority.

(a) any vacancy in, or any defect in the constitution of, the National Authority; or

(b) any defect in the appointment of a person as the Chairperson or a Member of the National Authority; or

(c) any irregularity in the procedure of the National Authority not affecting the merits of the case.

67. (1) The National Authority shall have under it such numbers and categories of officers and other employees, as the Central Government may determine in consultation with the Chairperson of the National Authority from time to time, to assist the National Authority in the discharge of its functions. Officers and other employees of National Authority.

(2) The National Authority may appoint its officers and other employees in such manner as may be prescribed by the Central Government.

(3) The officers and other employees of the National Authority appointed under sub-section (2) shall discharge their functions under the general superintendence of the Chairperson.

(4) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the National Authority shall be such as may be prescribed by the Central Government.

Powers and  
functions of  
National  
Authority.

68. (1) Subject to the provisions of this Act, the National Authority shall discharge and exercise the following functions and powers in respect of major minerals, namely:—

(a) lay down the standards of quality of technical regulation to be followed by the State Governments and the Indian Bureau of Mines;

(b) lay down the standards of quality of reports and information provided in the public domain by the State Governments, Indian Bureau of Mines and Geological Survey of India to the investors in the mining sector;

(c) mediate on the issue of jurisdiction in matters of inspection of mining areas amongst the State Governments and the Indian Bureau of Mines;

(d) advise on mineral-wise conservation strategies keeping in view of the national interest;

(e) advise on matters relating to the framework for sustainable development of the mining sector, including implementation and monitoring thereof:

Provided that notwithstanding anything contained in this Act, the National Authority may, on the request of the Central Government or any State Government, render advice on sustainable development framework for minor minerals;

(f) advise the Central Government and any State Government, on a reference from them, on issues pertaining to measures to increase transparency in the grant of mineral concessions and efficiency in models for competitive bidding of minerals;

(g) review of the existing rates of royalty on minerals (other than coal, lignite and sand for stowing) specified in the Second Schedule for major minerals in terms of sub-section (2) of section 41 and the profit sharing percentage payable under sub-section (2) of section 43 and recommend revision of rates of royalty and profit sharing percentage to be paid by the mining lease holder from time to time;

(h) review of the existing rates of dead rent on minerals (other than coal, lignite and sand for stowing) specified in the Third Schedule for major minerals in terms of sub-section (3) of section 42 and recommend revision of rates of royalty from time to time;

(i) recommend suitable mechanisms to moderate royalty and profit sharing percentage to support investment in remote areas or for induction of special technology or for promoting mineral beneficiation or to produce downstream products of strategic value or to create infrastructure:

Provided that the recommendations of the National Authority under this sub-section shall be made in consultation with the State Governments and the mining industry and shall be in the form of a report submitted to the Central Government:

Provided further that the National Authority shall not recommend increase in royalty rates or profit sharing percentage for any mineral or fees or other charges more than once in three years.

(j) recommend strategies and institutional mechanisms to the Central Government for attracting long-term investments in the mining sector;

(k) recommend mechanisms to protect the interests of the end-use industries in the country for assured long-term supply of minerals.

(2) The National Authority shall have the power to regulate its own procedure thereof in all matters arising out of the exercise of its powers or of the discharge of its functions.

(3) The National Authority shall ensure transparency in exercising its powers and discharging its functions.

(4) The National Authority or any of its officers authorised by it may call for records, material evidence, or persons accused of contravening any of the provisions or committing any of the offences under this Act.

(5) All proceedings before the National Authority in discharge of its functions shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228, and for the purposes of section 196 of the Indian Penal Code and the National Authority shall be deemed to be a civil court for the purposes of section 195 and chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

(6) Notwithstanding anything contained in section 75, the order of the National Authority shall not be subject to revision by the National Mining Tribunal.

(7) The recommendation or advice of the National Authority under this section shall be in the form of a report to the Central Government and the Central Government shall take a decision thereon within a period of three months:

Provided that where the Government takes a decision at variance with the recommendation or advice of the National Authority, it shall record the reasons therefor and intimate the same to the National Authority.

(8) The National Authority shall include in its annual report all the cases where its recommendation or advice has not been accepted by the Central Government along with reasons therefor.

69. (1) Without prejudice to any other law for the time being in force, the National Authority may, on the basis of written complaint alleging contravention of the provisions of the Act or alleging commission of any offence punishable under this Act or the rules made thereunder in respect of major minerals where such contraventions or commission of offences have been committed on large scale or on organised basis or takes place inter-state, investigate or cause to be investigated any such complaint or institute prosecution against any person.

Search, seizure  
and investigation.

(2) Without prejudice to the generality of the provisions of sub-section (1), the National Authority may investigate or cause to be investigated or institute prosecution against any person where contraventions or commission of offences have been committed on large scale or on organised basis or have taken place inter-state, in respect of major minerals in the following cases, namely:—

(i) exploration and mining for any mineral without licence or lease;

(ii) undertaking of mining or exploration activity outside the area granted under licence or lease;

(iii) transactions relating to or possession of mineral stock of unknown origin, or such mineral which cannot be satisfactorily accounted for;

(iv) transportation, storage, trade or export of illegally raised mineral without lawful authority:

(3) The National Authority may, if it finds that the contravention of any of the provisions of this Act or commission of any offence thereunder in respect of major minerals is of a small scale or isolated nature, refer any complaint referred to in sub-section (1) or sub-section (2) to the State Government concerned for such action as it deems fit.

(4) The Central Government or the State Government or the National Authority may, by notification in the Official Gazette, appoint such persons as it thinks fit, possessing such qualifications as may be prescribed, or such authority fulfilling such criteria or appoint an Investigation officer or Investigating Authority or appoint legal practitioner for initiating

prosecution or defending its case before any Court or Tribunal for such area as may be specified in the notification, to investigate or initiate prosecution into contravention of any of the provisions of this Act or commission of any offence thereunder in respect of major minerals [including cases falling under clauses (i) to (iv) of sub-section (2)].

*Explanation.*—For the purposes of this sub-section, “legal practitioner” means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.

(5) The Investigation Officer or the Investigating Authority referred to in sub-section (4), if so authorised by the Central Government, shall have the power—

(a) to enter and search, at all reasonable times and with such assistance, if any, as he considers necessary, any premises in which he has reason to believe an offence under this Act or the rules made thereunder has been or is being committed;

(b) to require the production of, and to inspect, examine and make copies of, or take extracts from registers, records or any other documents kept by a holder of a mining lease or licence, as the case may be, in pursuance of the provisions of this Act or the rules made thereunder and seize the same, if he has reason to believe that all or any of them, may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder;

(c) to make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or the rules made thereunder are being complied with;

(d) to exercise such other powers as may be necessary for carrying out the purposes of this Act or the rules made thereunder.

(6) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code. 2 of 1974.

(7) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to the process of investigation and initiation of prosecution of the offences in respect of major minerals under the provisions of this Act, as they apply to the investigation or initiation of prosecution made under the provisions of the said Code. 2 of 1974.

(8) The Investigating Officer or Investigating Authority, as the case may be, shall complete the process of investigation within a period of three months from the date of authorisation for conducting such investigation and submit the report of such investigation to the National Authority.

(9) The Investigation Officer or the Investigating Authority may take the assistance of police if it so becomes necessary for discharge of its functions under this Act.

(10) The National Authority either on its own motion (on the basis of material in its possession) or on the basis of report referred to in sub-section (8) or an Investigation Officer or Investigating Authority or any of its officer, if so authorised by the National Authority may file a complaint before a competent court in respect of contravention of the provisions of this Act or commission of any offence thereunder in respect of major minerals.

70. (1) The State Government may, by notification, establish with effect from such date as may be specified therein, a State Authority to be known as the State Mining Regulatory Authority, to exercise the powers and functions, *mutatis-mutandis*, in respect of minor minerals, as is exercisable under sections 68 and 69 by the National Authority.

(2) Without prejudice to the provisions of sub-section (1), the State Government may confer on the State Authority the functions relating to monitoring and regulating the operation of the Sustainable Development Framework in respect of minor minerals and for major minerals after approval of the Central Government.



71. The composition and procedure of the State Authority referred to in section 70 shall be such as may be prescribed by the State Government:

Composition and procedures of State Authority.

Provided that in respect of functions relating to the Sustainable Development Framework the procedure shall be in accordance with the provisions of section 46.

72. (1) Subject to the provisions of this Act, the State Authority shall have the powers to authorise investigation and institute prosecution against any person for offences under this Act in respect of minor minerals or major minerals in the following cases, namely:—

Powers and functions of State Authority.

- (a) exploration and mining operations for any mineral without licence or lease;
- (b) undertaking of any mining or exploration activity outside the area granted under licence or lease;
- (c) transactions relating to possession of mineral stock of unknown origin, or such mineral which cannot be satisfactorily accounted for;
- (d) transportation, storage, trade or export, of illegally raised mineral without lawful authority;
- (e) any other matter pertaining to illegal mining referred to the State Authority by the State Government:

Provided that in any case where the matter is under investigation or prosecution by the National Authority, the State Authority shall not carry out any further investigation or prosecution except with the approval of the National Authority.

(2) Notwithstanding anything contained in section 85, the order of the State Authority shall not be subject to revision by the National Mining Tribunal.

73. (1) If, at any time, the Central Government is of the opinion,—

Powers of Central Government to supersede National Authority.

- (a) that, on account of circumstances beyond the control of the National Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or
- (b) that the National Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the National Authority or the administration of the National Authority has suffered; or
- (c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may for reasons to be recorded, by notification, supersede the National Authority for such period, not exceeding one year, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the National Authority to make representations against the proposed supersession and shall consider the representations, if any, of the National Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the National Authority,—

- (a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such;
- (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the National Authority shall, until the National Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and
- (c) all properties owned or controlled by the National Authority shall, until the National Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the National Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for re-appointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Power of State Government to supersede State Authority.

74. (1) If, at any time, the State Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the State Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the State Authority has persistently defaulted in complying with any direction given by the State Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the State Authority or the administration of the State Authority has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do, the State Government may for reasons to be recorded, by notification, supersede the State Authority for such period, not exceeding one year, as may be specified in the notification and appoint a person or persons as the Governor may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the State Government shall give a reasonable opportunity to the State Authority to make representations against the proposed supersession and shall consider the representations, if any, of the State Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the State Authority,—

(a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the State Authority shall, until the State Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the State Authority shall, until the State Authority is reconstituted under sub-section (3), vest in the State Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the State Government shall reconstitute the State Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for re-appointment.

(4) The State Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

## CHAPTER XII

### NATIONAL MINING TRIBUNAL AND STATE MINING TRIBUNAL

Establishment of National Mining Tribunal and benches thereof.

75. The Central Government shall by notification establish with effect from such date as may be specified therein, a Tribunal to be known as the National Mining Tribunal, to exercise jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

76. (1) The National Mining Tribunal shall consist of a full time Chairperson and not more than seven judicial Members and seven expert Members to be appointed, by notification, by the Central Government.

Composition  
of National  
Mining  
Tribunal.

(2) The Chairperson of the National Mining Tribunal may, if considered necessary, invite any one or more persons having specialised knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case.

(3) Subject to the other provisions of this Act, the jurisdiction, powers and authority of the National Mining Tribunal may be exercised by Benches thereof as may be notified by the Central Government.

(4) Subject to the other provisions of this Act, a Bench shall consist of three Members with Chairperson or an Expert Member and one Judicial Member and third Member who may be either Expert Member or Judicial Member.

(5) Notwithstanding anything contained in sub-section (1), the Chairperson may transfer a Member from one Bench to another Bench.

(6) Subject to the other provisions of this Act, the Benches of the National Mining Tribunal shall ordinarily sit at Delhi (which shall be known as the Principal Bench) and at such other places as the Central Government may, by notification, specify.

77. (1) A person shall not be qualified for appointment as Chairperson of the National Mining Tribunal, unless he,—

Qualifications  
for appoint-  
ment as  
Chairperson  
or Member of  
National  
Mining  
Tribunal.

(a) is of not less than fifty-five years of age;

(b) has special knowledge and experience of not less than four years in law relating to mines and exploration; and

(c) has experience of quasi-judicial functions:

Provided that a person who is, or has been in the service of Government shall not be appointed as a Chairperson unless such person has held the post of Secretary or Additional Secretary to the Government of India or any equivalent post in the Central Government or the State Government, as the case may be, for a period of not less than three years.

(2) A person shall not be qualified for appointment as Judicial Member unless he,—

(a) is of not less than fifty-five years of age;

(b) has held a judicial office in the territory of India for at least ten years; or has been a member of the Indian Legal Service and has held a post in Grade I of that service or any equivalent post for at least three years, or has been an advocate for at least ten years with experience in dealing with mining related matters.

(3) A person shall not be qualified for appointment as an Expert Member, unless he,—

(a) is of not less than fifty-five years of age;

(b) has experience in the field of mining sector at the national level, and has held the post of Joint Secretary to the Government of India or any equivalent post in the Central Government or the State Government, as the case may be, for at least five years.

(4) The Central Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or any Member, make a reference to the Selection Committee for filling up of the vacancy.

78. (1) The Central Government shall, for the purpose of selection of the Chairperson and Members of the National Mining Tribunal constitute a Selection Committee, consisting of the following, namely:—

Selection  
Committee  
for selection  
of Chairper-  
son and  
Members.

(a) Cabinet Secretary — Chairperson;

(b) Secretary in the Ministry of Mines — Member;

(c) Secretary in the Ministry of Law and Justice— Member;

(d) one expert to be nominated by the Ministry of Mines— Member.

(2) The Secretary in the Ministry of Mines, Government of India shall be the Convenor of the meeting of the Selection Committee.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names in order of preference for every vacancy referred to it and the Government shall make appointment from such panel.

(5) Before recommending any person for appointment as a Chairperson or a Member of the National Tribunal, the Selection Committee shall satisfy itself that such person shall not have any financial or other interest, which is likely to affect prejudicially his functions as Chairperson or Member.

(6) No appointment of the Chairperson or a Member of the National Mining Tribunal shall be invalid merely by reason of any vacancy in the Selection Committee.

(7) Subject to the provisions of sub-sections (1) to (6), the Selection Committee may regulate its own procedure.

Terms of  
office, salaries  
and allowances  
of Chairper-  
son and  
Members of  
National  
Mining  
Tribunal.

79. (1) The Chairperson of the National Mining Tribunal shall hold office for a term of five years from the date on which he enters upon his office or upto the age of sixty-seven years, whichever is earlier.

(2) A Member of the National Mining Tribunal shall hold office for a term of five years from the date on which he enters upon his office or upto the age of sixty-five years, whichever is earlier.

(3) The salary or honorarium and other allowances payable to, and other terms and conditions of service of, the Chairperson and other Members of the National Mining Tribunal shall be such as may be prescribed by the Central Government:

Provided that neither the salary or honorarium and other allowances nor the other terms and conditions of service of the Chairperson and other Members of the National Mining Tribunal shall be varied to their disadvantage after appointment.

Resignation.

80. A Chairperson and a Member of the National Mining Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that a Chairperson and a Member of the National Mining Tribunal shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

Removal and  
suspension of  
Chairperson  
or Members  
of National  
Mining  
Tribunal.

81. (1) The Central Government may, by order, remove from office, the Chairperson or any Member of the National Mining Tribunal, if the Chairperson or such other Member, as the case may be, in its opinion—

(a) has been adjudged as insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) has engaged at any time during his term of office in any other employment.

(2) No Chairperson or any other Member of the National Mining Tribunal shall be removed from office except by an order of the Central Government on the ground of his proved misbehaviour or incapacity after the Central Government, has, on an inquiry, held in accordance with the procedure prescribed in his behalf by the Central Government, come to the conclusion that the Chairperson or Member, as the case may be, ought on any such ground to be removed.

(3) The Central Government may suspend the Chairperson or a Member of the National Mining Tribunal, as the case may be, in respect of whom an inquiry under sub-section (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

82. (1) In the event of the occurrence of any vacancy in the office of the Chairperson of the National Mining Tribunal by reason of his death or resignation, the senior-most expert Member of the National Mining Tribunal shall act as the Chairperson of the Tribunal until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

Member of National Mining Tribunal to act as its Chairperson in certain cases.

(2) When the Chairperson of the National Mining Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the senior-most expert Member of the National Mining Tribunal, shall discharge the functions of the Chairperson until date on which the Chairperson resumes his duties.

83. No act or proceeding of the National Mining Tribunal shall be invalid merely by reason of—

Vacancies, etc., not to invalidate proceedings of National Mining Tribunal.

(a) any vacancy in, or any defect in the constitution of, the National Mining Tribunal; or

(b) any defect in the appointment of a person as the Chairperson or a Member; or

(c) any irregularity in the procedure of the National Mining Tribunal not affecting the merits of the case.

84. (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the National Mining Tribunal in the discharge of its functions.

Staff of National Mining Tribunal.

(2) The recruitment of the officers and other employees of the National Mining Tribunal shall be made by the Chairperson in such manner as may be prescribed by the Central Government;

(3) The officers and other employees of the National Mining Tribunal shall discharge their functions under the general superintendence of the Chairperson; and

(4) The salaries and allowances and conditions of service of the officers and other employees of the National Mining Tribunal shall be such as may be prescribed by the Central Government.

85. (1) Subject to the provisions of this Act, the National Mining Tribunal shall have the powers with respect to major minerals—

Powers and procedure of National Mining Tribunal.

(a) to adjudicate on applications seeking directions to the Central Government or the State Governments or an Authority of the State Government to dispose of an application made to it, including an application for grant or transfer of mineral concession under this Act, with respect to any major mineral within such time as the National Mining Tribunal may stipulate, in cases where the Central Government or the State Government or an Authority of the State Government, as the case may be, has failed to dispose of the application within the time specified under this Act.

(b) to hear applications from any affected person in relation to orders and directions issued under this Act relating to preparation, approval and implementation of Mining Plans, Mine Closure Plans and Sustainable Development Framework;

(c) to hear applications made to it in the nature of revisions from the affected persons and confirm or set aside any order passed by the Central Government or the State Government or an Authority of the State Government, as the case may be, under this Act or the rules made thereunder as it may deem just and proper.

(2) Subject to the provisions of this Act and the rules made thereunder, the National Mining Tribunal shall have the power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions.

(3) Subject to other provisions of this Act, the National Mining Tribunal may call for the records of the case and pass such order or direction in respect of the matter specified in sub-section (1), as it may deem fit:

Provided that the National Mining Tribunal shall, before passing any order or direction, under this sub-section issue notice to the Central Government or the State Government or an Authority of the State Government, as the case may be, and give a reasonable opportunity to the affected parties and if necessary any other authority, as the case may be, of being heard:

Provided further that the National Mining Tribunal shall dispose of the case within a period of six months from the date of filing of the application unless for reasons to be recorded, the National Mining Tribunal extends the time period for such disposal.

(4) The National Mining Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisition any public record or document or copy of such record or document from any other; 1 of 1872.

(e) issuing commissions for the examination of witness or documents;

(f) reviewing its decision;

(g) dismissing an application for default or deciding it *ex parte*;

(h) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;

(i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any applications made or appeal filed under this Act;

(j) any other matter which may be prescribed by the Central Government.

(5) All proceedings before the National Mining Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860.  
2 of 1974.

(6) On the conclusion of proceedings, the National Mining Tribunal, shall pass such orders as it deems fit and provide such relief as may be desirable, including the award of such punitive damages, as it deems fit, to the affected party at issue.

(7) Every order made by the National Mining Tribunal, under sub-section (6) shall be signed by the Chairperson or Member or Members who heard the case and passed the order.

86. (1) Any person aggrieved by an order of the Central Government or the State Government or an Authority of the State Government, as the case may be, may make an application to the National Mining Tribunal, in such form and accompanied by such fee as may be prescribed by the Central Government, within a period of ninety days from the date on which a copy of such order is received by such aggrieved person:

Application to  
National  
Mining  
Tribunal.

Provided that the National Mining Tribunal may entertain an application after the expiry of the said period of ninety days if it is satisfied, for reasons to be recorded that there was sufficient cause for not filing it within that period.

(2) Where an application before the National Mining Tribunal is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, dismiss the application and make an order that the applicant shall pay to the respondent such costs as may be specified in the order.

67 of 1957.

87. All revision cases pending under section 30 of the Mines and Minerals (Development and Regulation) Act, 1957, as it stood before its repeal, before the Central Government shall, on commencement of this Act, stand transferred to the National Mining Tribunal on its establishment and to be disposed of as an application under section 85 of this Act.

Transfer of  
revisions  
pending before  
Central  
Government  
to National  
Mining  
Tribunal.

5 of 1908.

88. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force, an appeal shall lie against any order, not being an interlocutory order, of the National Mining Tribunal to the High Court on one or more grounds specified in section 100 of that Code.

Appeal to  
High Court.

(2) No appeal shall lie against any decision or order made by the National Mining Tribunal with the consent of the parties.

89. The State Government may, by notification, establish with effect from such date as may be specified therein, a Tribunal to be known as the State Mining Tribunal, to exercise jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

Establishment  
of State  
Mining  
Tribunal.

90. The State Mining Tribunal shall consist of a full time Chairperson and two other Members of which one shall be a judicial Member and other shall be an Expert Member, to be appointed by the State Government.

Composition  
of State  
Tribunal and  
benches  
thereof.

91. (1) A person shall not be qualified for appointment as Chairperson of the State Mining Tribunal, unless he,—

Qualifications  
for  
appointment  
as Chairperson  
or Member of  
State Mining  
Tribunal.

(a) is of not less than fifty-five years of age;

(b) has special knowledge and experience of not less than four years in law relating to mines and exploration; and

(c) has experience of quasi-judicial functions:

Provided that a person who is, or has been in the service of Government shall not be appointed as a Chairperson unless such person has held the post of Principal Secretary to the State Government or any equivalent post, as the case may be, for a period of not less than three years.

(2) A person shall not be qualified for appointment as Judicial Member unless he,—

(a) is of not less than fifty-five years of age;

(b) has held a judicial office in the territory of India for at least seven years or has been a member of the Indian Legal Service and has held a post in Grade II of that

service or any equivalent post for at least three years, or has been an advocate for at least ten years with experience in dealing with mining related matters.

(3) A person shall not be qualified for appointment as Expert Member, unless he,—

(a) is of not less than fifty-five years of age;

(b) has experience in the field of mining sector at the State level, and has held the post of Secretary to the State Government or any equivalent post for at least five years.

(4) The State Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or any Member, make a reference to the Selection Committee for filling up of the vacancy.

Selection  
Committee for  
selection of  
Chairperson  
and Members  
of State  
Mining  
Tribunal.

92. (1) The State Government shall, for the purpose of selection of the Chairperson and Members of the State Mining Tribunal constitute a Selection Committee, consisting of the following, namely:—

(a) Chief Secretary – Chairperson;

(b) Principal Secretary in the Department of Mines in the State Government— Member;

(c) Secretary, Department of Legal Affairs in the State Government— Member;

(d) One expert to be nominated by the Chief Secretary— Member.

(2) The Principal Secretary to the State Government dealing with mines shall be the Convenor of the meetings of the Selection Committee.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names in order of preference for every vacancy referred to it and the State Government shall make appointment from such panel.

(5) Before recommending any person for appointment as a Chairperson or a Member of the State Mining Tribunal, the Selection Committee shall satisfy itself that such person does not have any financial or other interest, which is likely to affect prejudicially his functions as Chairperson or Member.

(6) No appointment of the Chairperson or a Member of the State Mining Tribunal shall be invalid merely by reason of any vacancy in the Selection Committee.

(7) Subject to the provisions of sub-sections (1) to (6), the Selection Committee shall regulate its own procedure.

Terms of  
office, salaries  
and allowances  
of Chairperson  
and Members  
of State  
Mining  
Tribunal.

93. (1) The Chairperson of the State Mining Tribunal shall hold office for a term of five years from the date on which he enters upon his office or upto the age of sixty- seven years, whichever is earlier.

(2) A Member of the State Mining Tribunal shall hold office for a term of five years from the date on which he enters upon his office or upto the age of sixty-five years, whichever is earlier.

(3) The salary or honorarium and other allowances payable to and other terms and conditions of service of the chairperson and other members of the State Mining Tribunal shall be such as may be prescribed by the State Government:

Provided that neither the salary or honorarium and other allowances nor the other terms and conditions of service of the chairperson and other members of the State Mining Tribunal shall be varied to their disadvantage after appointment.

Resignation.

94. A Chairperson and a Member of the State Mining Tribunal may, by notice in writing under his hand addressed to the State Government, resign his office:



Provided that a Chairperson and a Member of the State Mining Tribunal shall, unless he is permitted by the State Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

95. (1) The State Government may, by order, remove from office, the Chairperson or any Member, if the Chairperson or such other Member of the State Mining Tribunal, as the case may be, in its opinion,—

Removal and suspension of Chairperson or Members of State Mining Tribunal.

- (a) has been adjudged as insolvent; or
- (b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as a member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or
- (f) has engaged at any time during his term of office in any other employment.

(2) No Chairperson or any other Member of the State Mining Tribunal shall be removed from office except by an order of the State Government on the ground of his proved misbehaviour or incapacity after the State Government, has, on an inquiry, held in with the procedure prescribed in his behalf by the State Government, come to the conclusion that the Chairperson or Member, as the case may be, ought on any such ground to be removed.

(3) The State Government may suspend the Chairperson or any Member of the State Mining Tribunal in respect of whom an inquiry under sub-section (2) is being initiated or pending until the State Government has passed an order on receipt of the report of the inquiry.

96. (1) In the event of the occurrence of any vacancy in the office of the Chairperson of the State Mining Tribunal by reason of his death or resignation, the senior-most expert Member of the State Mining Tribunal shall act as the Chairperson of the Tribunal until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

Member of State Mining Tribunal to act as its Chairperson in certain cases.

(2) When the Chairperson of the State Mining Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the senior-most expert Member of the State Mining Tribunal, shall discharge the functions of the Chairperson until date on which the Chairperson resumes his duties.

97. No act or proceeding of the State Mining Tribunal shall be invalid merely by reason of—

Vacancies, etc., not to invalidate proceedings of State Mining Tribunal.

- (a) any vacancy in, or any defect in the constitution of, the State Mining Tribunal; or
- (b) any defect in the appointment of a person as the Chairperson or a Member; or
- (c) any irregularity in the procedure of the State Mining Tribunal not affecting the merits of the case.

98. (1) The State Government shall determine the nature and categories of the officers and other employees required to assist the State Mining Tribunal in the discharge of its functions.

Staff of State Mining Tribunal.

(2) The recruitment of the officers and other employees of the State Mining Tribunal shall be made by the Chairperson in such manner as may be prescribed by the State Government;

(3) The officers and other employees of the State Mining Tribunal shall discharge their functions under the general superintendence of the Chairperson; and

(4) The salaries and allowances and conditions of service of the officers and other employees of the State Mining Tribunal shall be such as may be prescribed by the State Government.

Powers and  
procedure of  
the State  
Mining  
Tribunal.

99. (1) Subject to the provisions of this Act, the State Mining Tribunal shall have the powers with respect to minor minerals—

(a) to adjudicate on applications seeking directions to the State Government or an authority of the State Government, as the case may be, to dispose off an application made to it, including an application for grant of mineral concession under this Act, with respect to any minor mineral within such time as the State Mining Tribunal may stipulate, in cases where the State Government has failed to dispose off the application within the time specified in the Act.

(b) to hear applications from any affected person in relation to orders or directions issued under this Act relating to preparation, approval and implementation of Mining Plans, mining frameworks and Mine Closure Plans and Sustainable Development Framework;

(c) to hear applications made to it in the nature of revisions from the affected persons and confirm or set aside any order passed by the Central Government or the State Government or an Authority of the State Government, as the case may be, under this Act or the rules made thereunder as it may deem just and proper.

(2) Subject to the provisions of this Act and the rules made thereunder, the State Mining Tribunal shall have the power to regulate its own procedure and the procedure in all matters arising out of the exercise of its powers or of the discharge of its functions.

(3) Subject to other provisions of this Act, the State Mining Tribunal may call for the records of the case and pass such order or direction in respect of the matter specified in sub-section (1), as it may deem fit:

Provided that the State Mining Tribunal shall, before passing any order or direction, under this sub-section issue notice to the State Government or an Authority of the State Government, as the case may be, and give a reasonable opportunity to the affected persons and if necessary any other authority, as the case may be, of being heard:

Provided further that the State Mining Tribunal shall dispose of the case within a period of six months from the date of filing of the application unless for reasons to be recorded, the Tribunal extends the time period for such disposal.

(4) The State Mining Tribunal shall have, for the purposes of discharging its function under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him an oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 requisitioning any public record or document or copy of such record or document from any other.

1 of 1872.

(e) issuing commissions for the examination of witness or documents;

(f) reviewing its decision;

(g) dismissing an application for default or deciding it *ex parte*;

(h) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;

(i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any applications made or appeal filed under this Act;

(j) any other matter which may be prescribed by the State Government.

45 of 1860.  
2 of 1974.

(5) All proceedings before the State Mining Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228, for the purposes of section 196 of the Indian Penal code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and chapter XXVI of the Code of Criminal Procedure, 1973.

(6) on the conclusion of proceedings, the State Mining Tribunal, shall pass such orders as it deems fit and provide such relief as may be desirable, including the award of such punitive damages, as it deems fit, to the affected party at issue.

(7) Every order made by the State Mining Tribunal, under sub-section (6) shall be signed by the Chairperson or Member or Members who heard the case and passed the order.

100. (1) Every application to the State Mining Tribunal against an order of the State Government or an Authority of the State Government, shall be filed within a period of ninety days from the date on which a copy of the order made by the State Government, is received by the aggrieved party, and it shall be in such form and be accompanied by such fee as may be prescribed by the State Government:

Application to  
State Mining  
Tribunal.

Provided that the State Mining Tribunal may entertain an application after the expiry of the said period of ninety days if it is satisfied, for reasons to be recorded that there was sufficient cause for not filing it within that period.

(2) Where an application before the State Mining Tribunal is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, dismiss the application and make an order that the applicant has to pay to the respondent such costs as may be specified in the order.

5 of 1908.

101. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force, an appeal shall lie against any order, not being an interlocutory order, of the State Mining Tribunal to the High Court on one or more grounds specified in section 100 of that Code.

Appeal to  
High Court.

(2) No appeal shall lie against any decision or order made by the State Mining Tribunal with the consent of the parties.

### CHAPTER XIII

#### CO-ORDINATION COMMITTEES AND NATIONAL REPOSITORIES

102. (1) The Central Government shall, by notification, constitute a Central Coordination-cum-Empowered Committee consisting of representatives of the Central Government and the State Governments to achieve the objects of the Act.

Central  
Coordination-  
cum-  
Empowered  
Committee.

(2) The functions of the Central Coordination-cum-Empowered Committee shall be such as may be notified.

(3) Without prejudice to the provisions of the foregoing, the Central Coordination-cum-Empowered Committee may consider and make recommendations regarding any of the following, namely:—

- (a) improvement in procedure for grant of mineral concessions;
- (b) coordination among agencies entrusted with according statutory clearances;
- (c) maintenance of internet-based databases including a mining tenement registry;
- (d) development, implementation and evaluation of sustainable development frameworks; and
- (e) prevention and detection of illegal mining.

(4) The Central Coordination-cum-Empowered Committee shall meet at least once in three months.

State  
Coordination-  
cum-  
Empowered  
Committee.

103. (1) The State Government shall by notification constitute a State Coordination-cum-Empowered Committee with representatives of the concerned Departments of State Government and local representative of Central organisations such as Railways, Highways, Ports and Customs, headed by Chief Secretary or Additional Chief Secretary of the State Government;

(2) The function of the State Coordination-cum-Empowered Committee shall be,—

(i) to oversee clearance by various Departments of the State Government necessary to ensure timely grant of mineral concessions;

(ii) review of activities in and around leased areas pursuant to the Corporate Social Responsibility document;

(iii) to monitor implementation of Sustainable Development Framework and Final Mine Closure Plans;

(iv) coordination of operations for prevention, detection and prosecution of cases of illegal mining; and

(v) any other functions as may be prescribed by the State Government.

(3) The State Coordination-cum-Empowered Committee shall meet at least once in two months.

National  
Repositories.

104. (1) The Central Government may, by notification, establish a National Drill Core Repository for preservation and archiving of drill cores generated during mineral exploration and a National Geophysical Data Repository for holding, authenticating and disseminating geophysical data for the purposes of this Act.

(2) The Repositories shall be managed and maintained in such manner as may be prescribed by the Central Government.

(3) The holder of any mineral concession shall, at his own expense, cause to be deposited,—

(a) a representative portion of cores selected with the National Drill Core Repository; and

(b) all geophysical data collected by him during or part of his reconnaissance, exploration and prospecting operation,

with the National Drill Core Repository and National Geophysical Data Repository respectively, in such manner as may be prescribed by the Central Government.

(4) The Central Government shall prescribe the procedure for making available data from the Repositories to interested persons on such charges as may be prescribed by it:

Provided that the Repositories, referred to in sub-section (3) shall not disclose information with respect to any drill core or any geophysical data received by it under this section till after lapse of six months from the date of termination of the mineral concession, or relinquishment of the area from which the drill core has been drawn or geophysical data has been generated.

## CHAPTER XIV

### SPECIAL COURTS

Constitution  
of Special  
Courts.

105. (1) The State Government may, for the purposes of providing speedy trial of offences referred to in sections 110, 111, 112 and 113 by notification, constitute as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.

(2) A Special Court shall consist of a single Judge who shall be appointed by the State Government with the concurrence of the High Court.

(3) A person shall not be qualified for appointment as a Judge of a Special Court unless he was, immediately before such appointment, of the rank of at least an Additional District and Sessions Judge.

(4) Where the office of the Judge of a Special Court is vacant, or such Judge is absent from the ordinary place of sitting of such Special Court, or he is incapacitated by illness or otherwise in the performance of his duties, any urgent business of the Special Court shall be disposed of in accordance with the direction of the District and Sessions Judge having jurisdiction over the ordinary place of sitting of the Special Court, as notified under sub-section (1):

Provided that the High Court of the State may, in case it is necessary or expedient to do so, direct that any business of the Special Court as may be specified shall be disposed of by any other Special Court or person qualified to be a Judge of a Special Court.

2 of 1974. 106. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under sections 110, 111, 112 and 113 of this Act shall be triable only by the Special Court within whose jurisdiction such offence has been committed.

Procedures  
and powers of  
Special Courts.

(2) Where it appears to any court in the course of any inquiry or trial that an offence is punishable under sections 110, 111, 112 and 113 of this Act it shall transfer such case to such Special Court having jurisdiction, and thereupon the case shall be tried and disposed of by such Special Court in accordance with the provisions of this Act:

Provided that it shall be lawful for such Special Court to act on the evidence, if any, recorded by any court in the case of presence of the accused before the transfer of the case to such Special Court:

Provided further that if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witnesses whose evidence has already been recorded, is required in the interest of justice, it may re-summon any such witness and after such further examination, cross-examination or re-examination, if any, as it may permit, the witness shall be discharged.

2 of 1974. (3) The Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code of Criminal Procedure, 1973, try the offence referred to in sections 110, 111, 112, and 113 of this Act in a summary way in accordance with the procedure prescribed in the said Code and the provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial:

Provided that where in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try such case in a summary manner, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the said Code for the trial of such offence:

Provided further that in case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding five years.

2 of 1974. (4) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code of Criminal Procedure, 1973, be deemed to have been tendered under section 307 thereof.

(5) The Special Court may determine the civil liability against a person in terms of money for raising, transporting or causing to be raised or transported without any lawful authority any mineral from any land, which shall not be less than an amount equivalent to two times of the value of mineral and the amount of liability so determined shall be recovered as if it were a decree of civil court.

(6) The civil liability so determined finally by the Special Court shall be payable to the State Government or to the person in whom the mineral vests, as the case may be.

*Explanation.*—For the purposes of this section, civil liability means loss or damage incurred by the State Government or concerned authorities, as the case may be, due to the commission of an offence, under sections 110, 111, 112 and 113.

Special Court  
to have  
powers of  
court of  
sessions.

107. Save as otherwise provided in this Act, the Code of Criminal Procedure, 1973, in so far as they are not inconsistent with the provisions of this Act, shall apply to the proceedings before the Special Court, and the Special Court shall be deemed to be a Court of Session and shall have all powers of a Court of Session and the person conducting a prosecution before the Special Court is deemed to be a Public Prosecutor. 2 of 1974.

Appeal and  
revision.

108. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973, as if the Special Court within the local limits of the jurisdiction of the High Court is a District Court, or as the case may be, the Court of Session, trying cases within the local limits of jurisdiction of the High Court. 2 of 1974.

Review.

109. The Special Court may, on a petition or otherwise and in order to prevent miscarriage of justice, review its judgment or order passed under this section, but no such review petition shall be entertained except on the ground that it was such order passed under a mistake of fact, ignorance of any material fact or any error apparent on the face of the record:

Provided that the Special Court shall not allow any review petition and modify or set aside its previous order or judgment without hearing the parties affected.

## CHAPTER XV

### OFFENCES AND PENALTIES

Punishment  
for  
reconnaissance,  
prospecting  
and mining  
operations  
without  
licence or  
lease.

110. (1) Whoever contravenes any of the provisions of section 4, shall be punished with imprisonment for a term which may extend to,—

(i) in cases of exploration without licence, two years, or with fine which may extend to twenty-five thousand rupees per hectare or part thereof subject to a maximum of fifteen lakh rupees in the case of prospecting, or with both;

(ii) in cases of mining without a lease, three years, or with fine which may extend to ten times the value of the mineral mined, or with both.

Penalty for  
non-  
implementation  
of final mine  
closure plan.

111. A lessee, who fails to implement a Final Mine Closure Plan in accordance with the provisions of this Act, or, abandons the mine or any portion of the mining lease area, which is likely to be a danger to the health and safety of the inhabitants of the area, shall be liable to a penalty which may extend to one thousand rupees per day per hectare for the period of such default.

Penalty for  
disobeying  
direction of  
State  
Government,  
etc.

112. (1) Whoever disobeys any direction given by the State Government or the Indian Bureau of Mines or any other authority empowered in this behalf under this Act or any other law for the time being in force shall be liable to a penalty which may extend to ten thousand rupees per day for the period of such disobedience.

(2) Any person who fails to comply with the directions of the State Government under sub-section (4) of section 30, shall be liable to be punished with imprisonment for a term not less than three years.

Penalty.

113. Whoever contravenes any provision of this Act or the rules made thereunder shall, if no penalty is provided elsewhere be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees, or with both, and in the case of continuing contravention, with an additional fine which may extend to one thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

114. (1) Whenever any person raises, without any lawful authority, any mineral from any land, without prejudice to any other action under the law for the time being in force, the State Government may recover from such person, or from such other person to whom the mineral may have been transferred, the mineral so raised, and the cost of its disposal or, where such mineral has already been disposed of, the price of the mineral so disposed of, and may also recover from such person the rent, royalty, tax or cess, as the case may be, for the period during which the land was occupied by such person without such lawful authority.

Recovery, seizure, etc., of minerals raised by any person without lawful authority.

(2) Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, any officer empowered by the Central Government or the State Government, as the case may be, by general or special order in this behalf may seize such mineral, tool, equipment, vehicle or any other thing, and the court having jurisdiction may order the confiscation and disposal of any such mineral, tool, equipment, vehicle or any other thing so seized.

115. (1) If the person committing an offence under this Act or any rules made thereunder is a company, every person who at the time the offence was committed was directly in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of offence and be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by the company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and be liable to be proceeded against and punished accordingly.

*Explanation.*— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or co-operative or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

116. No court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon a complaint in writing made by a person authorised in this behalf by general or special order of the Central Government or the State Government, as the case may be.

Cognizance of offences by courts.

117. (1) Any offence punishable under this Act or any rule made thereunder which provides for imprisonment may, either before or after the institution of prosecution, be compounded by the person authorised under section 116 to make a complaint to the court with respect to that offence, on payment to that person, for credit to the Government, of such sum as the compounding fee at such rate as may be prescribed which shall not exceed five times the maximum rate of the fine for the offence.

Compounding of offences.

(2) Where an offence is compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded, and the offender, if in custody, shall be released forthwith.

118. (1) Any rent, royalty, tax, cess, fee or other sum due to the Government either under this Act or any rule made thereunder or under the terms and conditions of any non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence or mining lease may, on a certificate of such officer as may be specified by the State Government in this behalf by general or special order, be recovered in the same manner as if it were an arrear of land revenue and every such sum which becomes due to the Government on or after the commencement of this Act, together with the interest due

Recovery of certain sums as arrears of land revenue.

thereon shall be a first charge on the assets of the holder of the non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence or mining lease, as the case may be:

Provided that in respect of a mineral concession relating to a land in which the mineral vests in a private person, such sum may also be recovered in the same manner from such person.

Ineligibility  
for grant of  
mineral  
concession.

119. (1) Any director, manager, secretary or other officer of the company, or any other person convicted of an offence punishable under this Act, or a company or its director, manager, secretary or any other person punishable with fine under this Act, such company or its director, manager, secretary or other officer or any other such person shall be ineligible for the purpose of grant of any mineral concession under this Act for a period of five years from the date of conviction, or imposition of fine, as the case may be.

(2) If any person convicted of an offence under sections 110, 111, 112 and 113 of this Act holds a mineral concession under this Act at the time of such conviction, the State Government, having regard to the nature and gravity of the offence, may cancel or determine any or all such mineral concessions:

Provided that in respect of a mineral concession relating to land the minerals of which vest in a private person, the Government may direct such person to determine the lease:

Provided further that no such order shall be made without giving an opportunity of being heard to the person holding the mineral concession and recording reasons:

Provided also that provisions of sub-section (3) of section 30 shall, *mutatis mutandis*, apply to every such case under this section.

Punishment  
for vexatious  
complaints.

120. Whoever files any written complaint, referred to in of sub-section (1) of section 69, to the National Authority which is found to be frivolous or vexatious, shall be punishable with fine which may extend to fifty thousand rupees.

Punishment  
for violation  
of directions  
of National  
Authority.

121. Whoever violates the directions of the National Authority issued under sub-section (4) of section 68, shall be punishable with a fine which may extend to five thousand rupees and in case of second or subsequent offence with a fine which may extend to ten thousand rupees and in the case of continuing contravention with an additional fine which may extend to ten thousand rupees for every day during which the default continues.

Punishment  
for obstructing  
investigation  
officer or  
Investigation  
Authority.

122. Whoever, obstructs an Investigation Officer or the Investigating Authority exercising the power of the Investigation Officer, in the exercise of his power or discharge of his duties under this Act or the rules made thereunder, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

## CHAPTER XVI

### MISCELLANEOUS

Power of  
entry and  
inspections.

123. (1) For the purpose of ascertaining the position of the working, actual or prospective, of any mine or abandoned mine or for any other purpose connected with this Act or the rules made thereunder, any person authorised by the Indian Bureau of Mines or the State Directorate and in the case of coal minerals by the Central Government in this behalf by general order, may,—

(a) enter and inspect any mine;

(b) survey and take measurements in any such mine;

(c) weigh, measure or take measurements of the stocks of minerals lying at any mine;

(d) examine any document, book, register, or record in the possession or power of any person having the control of, or connected with, any mine and place marks of identification thereon, and take extracts from or make copies of such document, book, register or record;



(e) order the production of any such document, book, register, record, referred to in clause (d); and

(f) examine any person having the control of, or connected with, any mine.

*Explanation.*—For the purposes of this sub-section, the expression “record” includes any electronic record as referred to in clause (t) of section 2 of the Information Technology Act, 2000.

21 of 2000.

45 of 1860.

(2) Every person authorised by the Indian Bureau of Mines or the State Directorate and in the case of Coal minerals by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code and every person to whom an order or summons is issued by virtue of the power conferred by clause (c) or clause (f) of sub-section (1) shall comply with such order or summons, as the case may be.

124. (1) If any officer of the Central Government or a State Government authorised by the Central Government or a State Government, as the case may be, in this behalf by general or special order has reason to believe that any mineral has been raised in contravention of the provisions of this Act or the rules made thereunder or any document or thing in relation to such mineral is secreted in any place or vehicle, he may search for such mineral, document or thing and the provisions of section 100 of the Code of Criminal Procedure, 1973 shall apply to every such search.

Power to  
search, enter  
and inspect.

2 of 1974.

(2) For the purpose of ascertaining the position of the working, actual or prospective, of any mine or abandoned mine or for any other purpose connected with this Act or the rules made thereunder, any person authorised by the Central Government or a State Government, as the case may be, in this behalf by general or special order, may,—

(a) enter and inspect any mine or mining operations or mineral bearing area;

(b) survey and take measurements in any such mine or area;

(c) weigh, measure or take measurements of the stocks of minerals lying at any mine;

(d) examine any document, book, register, or record in the possession or power of any person having the control of, or connected with, any mine or mining operations and place marks of identification thereon, and take extracts from or make copies of such document, book, register or record;

(e) order the production of any such document, book, register, record, as is referred to in clause (d); and

(f) examine any person having the control of, or connected with, any mine or mining operations.

*Explanation.*—For the purposes of this section, the expression “record” includes electronic record as referred to in clause (t) of section 2 of the Information Technology Act, 2000.

21 of 2000.

45 of 1860.

(3) Every person authorised by the Central Government or a State Government, as the case may be, under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, and every person to whom an order or summons is issued by virtue of the power conferred by clause (c) or clause (f) of that sub-section shall comply with such order or summons, as the case may be.

*Explanation.*—For the purposes of this section, the expression “Mining operations” includes any activity relating to the raising of any mineral, whether licenced or not.

125. The Central Government may, by notification, declare any mineral, or any grade thereof as a major mineral for all or any specified purpose or omit any mineral from the list of major minerals, and upon doing so, the First Schedule to the Act shall be deemed to have been amended.

Declaration of  
a mineral as a  
major mineral.

Accreditation  
of agencies.

**126.** The Central Government may prescribe the qualifications and conditions of accreditation of agencies authorised to prepare feasibility studies in accordance with the provisions of the United Nations Framework Classification adopted and notified by the Central Government for the purposes of this Act or any other notified code of practice including preparation of mining plans, mine closure plans and plans under Sustainable Development Framework, and the Indian Bureau of Mines shall function as the accreditation grant agency for the purpose.

Special  
provisions to  
deal with  
certain  
contingencies.

**127. (1)** It shall be the duty of the Indian Bureau of Mines or any authority of the Central Government as may be designated in respect of coal and atomic minerals, to render such assistances as may be required by the State Government to ensure that mining activities are regulated in accordance with the provisions of this Act.

(2) Where the Indian Bureau of Mines or authority designated under sub-section (1), on the basis of information available to it is of the opinion that the provisions of this Act and the rules made thereunder are not being complied with and that illegal or unscientific mining is going on in any State, the Indian Bureau of Mines or such authority shall make a report to this effect to the Central Government, and the Central Government may issue such direction as it may consider necessary to the State Government, relating to all or any of the following matters, namely:—

(a) investigation and prosecution of offences;

(b) seeking revocation of mineral concessions; and

(c) any measures to strengthen the administrative machinery for better regulation of mining in accordance with the provisions of Act.

(3) Where it appears to the Central Government that the directions referred to in sub-section (2) have not been complied with or where it appears that despite the purported compliance of the directions further steps are necessary, the Central Government may direct the authority referred to in sub-section (2), for—

(a) making written complaints under section 69 for the investigation and prosecution of offences;

(b) revocation of mineral concessions in accordance with the provisions of the Act; and

(c) any other measures as may be deemed fit in the circumstances.

Approval of  
Central  
Government  
to State  
Government.

**128.** Where in any case previous approval of the Central Government is required under this Act or the rules made thereunder, the request for such approval shall be made to the Central Government by the State Government along with the recommendations of the State Government on the matters for which the prior approval of the Central Government is sought, and all facts relevant to the matter on which such approval is sought.

Bar of  
Jurisdiction.

**129.** No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Special Court or the National Mining Tribunal and the State Mining Tribunal is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Delegation of  
powers.

**130. (1)** The Central Government may, by notification, direct that any power exercisable by it under this Act may, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be also exercisable by,—

(a) such officer or authority subordinate to the Central Government; or

(b) such State Government or such officer or authority subordinate to a State Government,

as may be specified in the notification.

(2) The State Government may, by notification, direct that any power exercisable by it under this Act may, in relation to such matters and subject to such conditions, if any,

as may be specified in the notification, be exercisable also by such officer or authority subordinate to the State Government as may be specified in the notification.

(3) Any rule made by the Central Government under this Act may confer powers and impose duties or authorise the conferring of powers and imposition of duties upon any State Government or any officer or authority subordinate thereto.

131. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

Power of  
Central  
Government  
to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner of application to be made to the State Governments along with application fee and earnest money under sub-section (5) of section 4;

(b) the manner of grant of mining lease for atomic minerals by the State Government under sub-section (9) of section 4;

(c) the manner of publication of the report of the reconnaissance or prospecting operations and the manner of intimation of the same to the State Government under sub-section (10) of section 4;

(d) the manner in which a person is to be registered with Indian Bureau of Mines or the State Directorate or any other agency authorised by the Central Government under sub-section (1) of section 5;

(e) identification of mineral or group of associated minerals for the purpose of granting of high-technology reconnaissance-cum-exploration licences under sub-section (1) of section 6;

(f) the manner of surrender of area out of licence by the holder of a non-exclusive reconnaissance licence, high-technology reconnaissance-cum-exploration licence and prospecting licence under sub-section (5) of section 6;

(g) procedure and condition for grant of mining lease for small deposits under sub-section (6) of section 6;

(h) the manner of approval of mining plan for extension of mining lease under sub-section (6) of section 7;

(i) the manner, terms and conditions in which competitive bidding and auction for coal minerals to take place under sub-section (6) of section 8;

(j) the manner of making available the data relating to the grant, extension, termination and plan of operations in the official website under sub-section (8) of section 8;

(k) the manner of evaluation of bids under sub-section (7) of section 13;

(l) the manner of inviting applications in grant of mineral concessions for coal minerals under sub-section (9) of section 13;

(m) the procedure for notifying an area for inviting applications for major minerals and grant of mineral concessions under sub-section (12) of section 13;

(n) the amount of fee to be charged by the State Governments for transfer of the mineral concession under sub-section (6) of section 17;

(o) the manner of payment of remaining amount of bid to the State Government under clause (b) of sub-section (3) of section 18;

(p) the additional fee to be fixed by the Central Government under the proviso to clause (b) of sub-section (3) of section 18;

(q) the other particulars for transfer of mining lease in clause (e) of sub-section (4) of section 18;

(r) the fee to be charged for transfer of mining lease in case of a major mineral under sub-section (9) of section 18;

(s) the manner of submission of reconnaissance plan under clause (b) of sub-section (1) of section 19;

(t) the manner of providing data by the licence holder within such intervals under clause (c) of sub-section (1) of section 19;

(u) the manner of submitting reports by the licence holder within such intervals under clause (f) of sub-section (1) of section 19;

(v) the other conditions for grant of non-exclusive reconnaissance licence under clause (1) of sub-section (1) of section 19;

(w) the general conditions relating to the non-exclusive licence under sub-section (2) of section 19;

(x) the form and manner of application to be made to the State Governments along with application fee and earnest money under sub-section (1) of section 20;

(y) the manner of acknowledging and registering of applications under sub-section (2) of section 20;

(z) conditions for high-technology reconnaissance-cum-exploration licence and prospecting licence to be fulfilled by the licence holder under sub-section (1) of section 21;

(za) the form and manner of application to be made to the State Governments for grant of high-technology reconnaissance-cum-exploration licence and prospecting licence along with application fee and earnest money under sub-section (1) of section 22;

(zb) the manner of acknowledging and registering of applications under sub-section (2) of section 22;

(zc) the manner of submission of report relating to the prospecting operations by the holder of high-technology reconnaissance-cum-exploration licence and a prospecting licence to the State Government under sub-section (2) of section 23;

(zd) the particulars to be furnished by the lessee relating to mining lease under clause (f) of sub-section (1) of section 24;

(ze) the manner and period of submission of report relating to the data relating to mining lease under sub-section (1) of section 24;

(zf) the manner of restoration of a mining area under clause (1) of sub-section (1) of section 24;

(zg) the amount of security deposits to be paid by the lessee under clause (n) of sub-section (1) of section 24;

(zh) the manner of setting up of a grievance redressal mechanism by the lessee under clause (o) of sub-section (1) of section 24;

(zi) conditions for mining to be fulfilled by the lessee under clause (p) of sub-section (1) of section 24;

(zj) the manner of acknowledging and registering of applications under sub-section (2) of section 25;

(zk) general conditions to be fulfilled for grant of mining lease under sub-section (3) of section 25;

(zl) the manner of preparation of a mining plan under section 26;

(zm) empanelment and accreditation of qualified persons for preparation of mining plan under sub-sections (4) and (5) of section 26;

(zn) technical and management capability of the State Directorate for grant of approval for major minerals under sub-section (6) of section 26;

(zo) the manner of extension of mining lease under sub-section (1) of section 28;

(zp) the procedure for condoning delay and revival or commencement or re-commencement of mining operations under sub-section (4) of section 29;

(zq) conditions for determination of mining lease under sub-section (1) of section 30;

(zr) the manner of providing compensation to the lessee under sub-section (2) of section 31;

(zs) the manner of preparation of progressive mine closure plan and final mine closure plan under section 32;

(zt) the manner of determination of costs of mine closure under sub-section (4) of section 33;

(zu) the method of calculation for the payment to be made by the lessee for coal minerals under the proviso to sub-section (2) of section 43;

(zv) the manner of registration of person or company or firm or association using or trading in or exporting or stocking mineral with the Indian Bureau of Mines under sub-section (5) of section 44;

(zw) sustainable development framework under sub-section (6) of section 46;

(zx) matters in which State Government may issue directions under section 47;

(zy) the manner and availability of reports to such persons and at such costs under sub-section (7) of section 48;

(zz) maintenance of accounts in respect of National Mineral Fund under sub-section (1) of section 52;

(zza) the other expenditure utilised for the District Mineral Foundation under sub-section (6) of section 56;

(zzb) the manner of approving such other expenditure available with the District Mineral Foundation under clause (c) of sub-section (2) of section 57;

(zzc) the salary and allowances payable to and other terms and conditions of service of the Chairperson and Members of the National Authority under sub-section (3) of section 62;

(zzd) the procedure for conducting any inquiry under sub-section (2) of section 64;

(zze) the manner of appointment of the officers and other employees of the National Authority under sub-section (2) of section 67;

(zzf) the salary and other allowances payable to, and the other terms and conditions of service of, the officers and other employees of the National Authority under sub-section (4) of section 67;

(zzg) qualifications for appointment of Investigation Officer under sub-section (4) of section 69;

(zzh) the salary and other allowances payable to and other terms and conditions of service of the Chairperson and other members of the National Mining Tribunal under sub-section (3) of section 79;

(zzi) the manner of removal of Chairperson or any Member of the National Mining Tribunal under sub-section (2) of section 81;

(zzj) the manner of recruitment, salaries, allowances and conditions of service of officers and other employees of National Mining Tribunal under section 84;

(zzk) the other powers of National Mining Tribunal under section 85;

(zzl) the form and manner of application to National Mining Tribunal along with application fee under section 86;

(zzm) the manner of managing the National Repositories and the data under sub-section (2) of section 104;

(zzn) the rate of compounding fee for credit to the Government under sub-section (1) of section 117; and

(zzo) any other matter which is to be, or may be prescribed under this Act.

Power of State  
Government  
to make rules.

**132. (1)** The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of publication of data that would be available to the general public under the proviso to sub-section (10) of section 4;

(b) the manner of making available the data on mineral concessions to the public under sub-section (8) of section 8;

(c) the procedure for notification for grant of mineral concession of minor mineral under sub-section (13) of section 13;

(d) the manner in which a notification may be issued for inviting competitive financial bids under sub-section (2) of section 18;

(e) the fee to be charged for the transfer of the mining lease in case of a minor mineral under sub-section (7) of section 18;

(f) the rate and in the manner of levy of surface rent and water rate under clause (e) of sub-section (1) of section 24;

(g) the manner of payment of compensation to the owner of surface, usufruct and traditional rights under sub-section (2) of section 43;

(h) the amount to be paid by the holder of the mining lease to the District Mineral Foundation in case of minor minerals under sub-section (2) of section 43;

(i) the manner of identification of the persons or families affected by mining related operations, determination of monetary benefit to each person or family and monitoring mechanism under sub-section (10) of section 43;

(j) the manner of administration of State Mineral Fund under sub-section (3) of section 53;

(k) the manner of audit of State Mineral Fund under section 55;

(l) the manner of constitution of District Mineral Foundation under sub-section (1) of section 56;

(m) the manner of consultation with affected persons or families under sub-section (1) of section 57;

(n) the manner of preparation of annual statement of accounts by District Mineral Foundation and audit under sub-section (6) of section 57;

(o) the manner of composition and procedures of State Authority under section 71;

(p) the terms of office, salaries and allowances of the Chairperson and members of State Mining Tribunal under sub-section (3) of section 93;

(q) the manner of removal of Chairperson or any Member of the State Mining Tribunal under sub-section (2) of section 95;

(r) the manner of recruitment, salaries, allowances and conditions of service of officers and other employees of State Mining Tribunal under section 98;

(s) the other powers of the State Mining Tribunal under section 99;

(t) the form and manner of application to State Mining Tribunal along with application fee under section 100;

(u) the other functions of State Coordination-cum-Empowered committee under section 103; and

(v) any other matter which is to be, or may be prescribed under this Act.

133. (1) Every rule made under this Act, and every notification issued under sub-section (3) of section 41, sub-section (3) of section 42 and section 125 of this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both the Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule or notification.

Laying of rules.

(2) Every rule made by the State Government under this Act and notification issued under sub-section (4) of section 41 and sub-section (4) of section 42 shall be laid as soon as may be, after it is made, before the State Legislature, where it consists of two Houses, or where such legislature consists of one House, before that House.

134. The Chairperson and other Members and the officers and other employees of the National Mining Regulatory Authority, National Mining Tribunal, State Mining Regulatory Authority and State Mining Tribunal are deemed to be the public servants within the meaning of section 21 of the Indian Penal Code.

Members and staff of Tribunals to be public servants.

45 of 1860.

135. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other laws for the time being in force.

Application of other laws not barred.

136. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

137. (1) All applications received under the Mines and Minerals (Development and Regulation) Act, 1957, as it stood before its repeal,—

Transitory provisions.

67 of 1957.

(i) for grant of prospecting licence or a mining lease after completing exploration under a reconnaissance permit or a prospecting licence, as the case may be; or

(ii) for which prior approval of the Central Government for grant of mineral concessions, has been given; or

(iii) where a letter of intent (by whatever name it is called) has been issued by the State Government to grant reconnaissance permit or prospecting licence or mining lease, as the case may be, and was pending grant of the concession under this Act for fulfilment of the conditions of the letter of intent,

and the application for grant of the mineral concessions is pending with the State Government at the time of commencement of this Act shall be processed in accordance with the provisions of this Act for grant of concession:

Provided that the State Government may impose special conditions relating to payment of application fee, licence fee, security, at the time of grant of mineral concession to the holder of application considered under this sub-section to comply with the provisions of this Act.

*Explanation.*—For the purposes of this sub-section, it is hereby clarified that in case of an application for reconnaissance permit considered under this Act, in terms of this sub-section, the State Government shall grant a non-exclusive reconnaissance licence.

(2) In case of such area, where applications for grant of prospecting licence or mining

lease received before the commencement of this Act have become ineligible in terms of the provisions of the Act, the area applied for under such applications shall be notified by the State Government for inviting applications in accordance with the provisions of section 13 for prospecting or for mining, as may be appropriate, having regard to the available evidence of mineralisation:

Provided that notwithstanding anything contained in section 13, the State Government may amalgamate areas or expand areas covered by such applications in the interest of scientific mining and may invite applications within a period of twelve months from the date of the commencement of this Act:

Provided further that in case no notification is issued within the period specified in the first proviso, the area shall be made available, subject to the provisions of sub-section (5), for grant of prospecting licence under the provisions of section 22.

(3) Applications for renewal of mineral concessions made under the Mines and Minerals (Development and Regulation) Act, 1957, as it stood before its repeal, and pending on the date of commencement of this Act shall be disposed off as applications for extension in accordance with the provisions of this Act. 67 of 1957.

(4) A person, who holds a reconnaissance permit prior to the commencement of this Act, shall be entitled to continue to hold the permit to the exclusion of all others for a period of two years or till the validity of the permit whichever is earlier, and during such period no other reconnaissance or high-technology reconnaissance-cum-exploration licence applications shall be entertained for the area covered by the reconnaissance permit, and the permit holder shall be deemed to be the holder of a non-exclusive reconnaissance licence for the purpose of sub-section (6) of section 22.

(5) No application for prospecting licence shall be entertained by the State Government for a period of two years from the date of the commencement of this Act in respect of major minerals (except coal minerals and atomic minerals), other than such applications made in accordance with the provisions of sub-section (7) of section 22, unless the State Government, by notification, invites applications for grant of prospecting licences:

Provided that the State Government may invite applications in different Districts of the State on different dates:

Provided further that the Central Government may extend the period specified in this sub-section for a period not exceeding one year by notification for reasons of scientific mining or proper regulation of mineral development on a request from the State Government.

Repeal and  
saving.

138. (1) The Mines and Minerals (Development and Regulation) Act, 1957, is hereby repealed. 67 of 1957.

(2) All rules made under the Mines and Mineral (Development and Regulation) Act, 1957, as it stood before its repeal, not inconsistent with the provisions of this Act, are deemed to have been made under this Act where such rules were made and shall continue in force unless and until they are superseded or amended by any rules made under this Act. 67 of 1957.

(3) All acts done, proceedings taken or notifications or orders issued and sentences passed under the Mines and Minerals (Development and Regulation) Act, 1957, as it stood before its repeal, shall be valid and operative as if they had been done, taken, passed or issued in accordance with the provisions of this Act, and no suit or other legal proceeding shall be maintained or continued against any person whatsoever, on the ground that any such acts, proceedings or sentences were not done, taken or passed in accordance with the provisions of this Act. 67 of 1957.

(4) Notwithstanding such repeal, any act done or order passed under that Act are deemed to have been done or passed under this Act except to the extent that such act or order is inconsistent with the provisions of this Act.

(5) The mention of particular matters in sub-section (4) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard 10 of 1897.



to the effect of repeal.

**139.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty:

Power to  
remove  
difficulties.

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of the commencement of this Act.

## THE FIRST SCHEDULE

(See section 3(a), (c), (f), (p), (m) and section 125)

## MAJOR MINERALS

**PART A. Coal minerals**

1. Coal and Lignite.

**PART B. Atomic Minerals**

1. Beryl and other beryllium-bearing minerals.
2. Lithium-bearing minerals.
3. Monazite and other thorium ore minerals, including thorium (monazite) bearing tailings left over from ores or beach sand mineral deposits after extraction of ilmenite or other heavy minerals.
4. Niobium-bearing minerals.
5. Phosphorites and other phosphatic ores containing Uranium.
6. Rare earth minerals.
7. Tantalum-bearing minerals.
8. Uranium, pitchblende and other uranium ore minerals, including uranium bearing tailings left over from ores after extraction of copper and gold.
9. Zirconium bearing minerals and ores including zircon.

**PART C. Beach sand minerals**

1. Titanium ore and concentrates (Ilmenite, Rutile and Leucoxene)

**PART D. Other Major Minerals**

1. Asbestos
2. Andalusite
3. Antimony
4. Agate
5. Alexandrite
6. Apatite
7. Ball Clay
8. Bauxite
9. Barytes
10. Calcite
11. Cadmium
12. Chalk
13. China clay or kaolin
14. Clay (Others including white shale and white clay)
15. Chromite
16. Cobalt ore
17. Copper ore
18. Corundum
19. Diamond
20. Diaspore
21. Dolomite
22. Dunite

23. Emerald
24. Felspar
25. Felsite
26. Fireclay (including plastic, pipe, lithomargic and natural pozzolanic clay)
27. Fluorite (fluorspar)
28. Garnet (abrasive and Gem)
29. Gold ore
30. Graphite
31. Gypsum
32. Iron ore (including Banded Iron Formations)
33. Jasper
34. Kyanite
35. Laterite
36. Lead ore
37. Limekankar ( but other than notified as minor minerals)
38. Limeshell ( but other than notified as minor minerals)
39. Limestone ( but other than notified as minor minerals)
40. Magnesite
41. Manganese ore
42. Marl
43. Mica
44. Molybdenum ore
45. Nickel Ore
46. Ochre
47. Opal
48. Perlite
49. Phosphorite or rock phosphate
50. Potash
51. Pyrites
52. Pyrophyllite
53. Pyroxenite
54. Quartz
55. Quartzite (including fulschite but other than notified as minor minerals)
56. Rock Salt
57. Ruby
58. Sapphire
59. Silica Sand moulding sand ( but other than notified as minor minerals)
60. Selenite
61. Shale (but other than notified as minor minerals)
62. Sillimanite
63. Silver ore
64. Slate (but other than notified as minor minerals)
65. Steatite or Talc or Soapstone
66. Sulphur (Native)

67. Tin ore
68. Tungsten ore
69. Vanadium ore
70. Vermiculite
71. Wollastonite
72. Zinc ore
73. Any other mineral with industrial use not listed above (but other than notified minor minerals).

## THE SECOND SCHEDULE

(See sub-sections (2) and (3) of section 41)

## RATES OF ROYALTY

1. Apatite and Rock Phosphate
  - (i) Apatite (all grades) : Five per cent. of sale price on *ad valorem* basis.
  - (ii) Rock Phosphate :
    - (a) Above 25 per cent. P<sub>2</sub>O<sub>5</sub> Eleven per cent. of sale price on *ad valorem* basis.
    - (b) Up to 25 per cent. P<sub>2</sub>O<sub>5</sub> Six per cent. of sale price on *ad valorem* basis.
2. Asbestos:
  - (a) Chrysotile Eight hundred eighty rupees per tonne.
  - (b) Amphibole Fifteen per cent. of sale price on *ad valorem* basis.
3. Barytes Five and half per cent. of sale price on *ad valorem* basis.
4. Bauxite and Laterite
  - (a) Zero point five zero per cent. of London Metal Exchange Aluminium metal price chargeable on the contained aluminium metal in ore produced for those despatched for use in alumina and aluminium metal extraction.
  - (b) Twenty five per cent. of sale price on *ad valorem* basis for those despatched for use other than alumina and aluminium metal extraction and export.
5. Brown Ilmenite (Leucoxene), Ilmenite, Rutile and Zircon Two per cent. of sale price on *ad valorem* basis.
6. Cadmium Fifteen per cent. of sale price on *ad valorem* basis.
7. Calcite Fifteen per cent. of sale price on *ad valorem* basis.
8. China clay/Kaolin (including ball clay, white shale and white clay) :

- (a) Crude Eight per cent. of sale price on *ad valorem* basis.
- (b) Processed (including washed) Ten per cent. of sale price on *ad valorem* basis.
9. Chromit Ten per cent. of sale price on *ad valorem* basis.

#### 10. COAL AND LIGNITE :

A. Coal produced in all States and Union territories except the State of West Bengal.

##### (1) Royalty on Coal:

The rates of royalty, which shall be a combination of specific and *ad valorem* rates of royalty which shall be as follows:

$$R \text{ (Royalty Rupees tonnes)} = a + bP$$

Where 'P' (price) shall mean basic pithead price of ROM (run-of-mine) coal and lignite as reflected in the invoice, excluding taxes, levies and other charges and the values of 'a' (fixed component) and 'b' (variable or *ad valorem* component) would be as follows:

Group	Grade of Coal	Royalty on coal in Rupees per tonne
Group-I	Steel Gr.I	a = Rs.180.00
	Steel Gr.II	b = 5 per cent.
	Washery-I	i.e. Rs.180 + 5 per cent. where 'P' (price) shall mean basic pithead price of ROM (run-of-mine) coal and lignite as reflected in the invoice, excluding taxes, levies and other charges.
	Direct Feed	
Group-II	Washery-II	a=Rs.130.00
	Washery-III	b = 5 per cent.
	Semi Coking Gr.I	i.e. Rs.130 + 5 per cent. where 'P' (price) shall mean basic pithead price of ROM (run-of-mine) coal and lignite as reflected in the invoice, excluding taxes, levies and other charges.
	Semi Coking Gr.II	
Group-III	Grade A	
	Grade B	
	Washery-IV	a=Rs.90.00
	Grade C	b = 5 per cent.
Group-IV	Grade D	a=Rs.70.00
Grade E	b = 5 per cent.	i.e. Rs.70 + 5 per cent. where 'P' (price) shall mean basic pithead price of ROM (run-of-mine) coal and lignite as reflected in the invoice, excluding taxes, levies and other charges.
Group-V	Grade F	a=Rs.55.00
	Grade G	b = 5 per cent.

i.e. Rs.55 + 5 per cent. where 'P' (price) shall mean basic pithead price of ROM (run-of-mine) coal and lignite as reflected in the invoice, excluding taxes, levies and other charges.

(2) Royalty on Lignite:

a = Rs.45.00

b = 2 per cent.

i.e. Rs.45 + 2 per cent. of basic pithead price of ROM (run-of-mine) coal lignite as reflected in the invoice excluding taxes, levies and other charges.

(3) Royalty on middlings:

(i) Useful Heat Value > 1300 rate applicable to corresponding grade of coal (based on Useful Heat Value);

(ii) Useful Heat Value ≤ 1300 a = Rs.45 b = 5 per cent. of price

i.e. Rs.45 + 5 per cent. of existing actual involve price (excluding taxes and other levies).

The royalty shall not be charged on such middlings or rejects wherein royalty has been charged on raw coal price to its washing in order to avoid double charging of royalty.

(4) Adjustment of royalty against levying of cess:

For States other than West Bengal that levy cess or other taxes specific to coal bearing lands, the royalty allowed shall be adjusted for the local cesses or such taxes so as to limit the overall revenue to the formula based yield.

B. Coal produced in the State of West Bengal:

(i) Group of Coals:

(a) Coking coal	Seven rupees only per tonne.
Steel Grade-I	
Steel Grade-II	
Washery Grade-I	

(ii) Group II of Coals:

(a) Coking Coal Washery Grade-II	Six rupees and fifty paise only per tonne.
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Coking Coal Washery Grade-III

(b) Semi-Coking Coal Grade-I

Semi-Coking Coal Grade-II

(c) Non-Coking Coal Grade-A

Non-Coking Coal Grade-B

(iii) Group III of Coals:

(a) Coking Coal Washery Grade-IV	Five rupees and fifty paise only per tonne.
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(b) Non-Coking Coal Grade-C

(iv) Group IV of Coals:

	(a) Non-Coking Coal Grade-D	Four rupees and thirty paise only per tonne.
	(b) Non-Coking Coal Grade-E	
	(v) Group V of Coals:	
	(a) Non-Coking Coal Grade-F	Two rupees and fifty paise only per tonne.
	(b) Non-Coking Coal Grade-G	
11.	Columbite-tantalite	Ten per cent. of sale price on <i>ad valorem</i> basis
12.	Copper	Four point two per cent. of London Metal Exchange copper metal price chargeable on the contained copper metal in ore produced.
13.	Diamond	Eleven point five per cent. of sale price on <i>ad valorem</i> basis.
14.	Dolomite	Sixty-three rupees per tonne.
15.	Felspar	Twelve per cent. of sale price on <i>ad valorem</i> basis.
16.	Fireclay (including plastic, pipe, lithomargic and natural pozzolanic clay)	Twelve per cent. of sale price on <i>ad valorem</i> basis.
17.	Fluorspar (also called fluorite)	Six point five per cent. of sale price on <i>ad valorem</i> basis.
18.	Garnet:	
	(a) Abrasive	Three per cent. of sale price on <i>ad valorem</i> basis.
	(b) Gem	Ten per cent. of sale price on <i>ad valorem</i> basis.
19.	Gold:	
	(a) Primary	Two per cent. of London Bullion Market Association price (commonly referred to as "London Price" ) chargeable on the contained gold metal in ore produced.
	(b) By-product gold	Three point three per cent. of London Bullion Market Association price (commonly referred to as "London Price" ) chargeable on by-product gold metal actually produced.
20.	Graphite:	
	(a) with 40 per cent. or more fixed carbon	Two per cent. of sale price on <i>ad valorem</i> basis.
	(b) with less than 40 per cent. fixed carbon	Twelve per cent. of sale price on <i>ad valorem</i> basis.
21.	Gypsum	Twenty per cent. of sale price on <i>ad valorem</i> basis.
22.	Iron Ore (lumps, fines and concentrates all grades):	Ten per cent. of sale price on <i>ad valorem</i> basis.



23. Lead	Seven per cent. of London Metal Exchange lead metal price chargeable on the contained lead metal in ore produced.  Twelve point seven per cent. of London Metal Exchange lead metal price chargeable on the contained lead metal in the concentrate produced.
24. Limestone:	
(a) L.D. grade (less than one and half per cent. silica content)	Seventy two rupees per tonne.
(b) Others	Sixty three rupees per tonne.
25. Lime kankar	Sixty three rupees per tonne.
26. Limeshell	Sixty three rupees per tonne.
27. Magnesite	Three per cent. of sale price on <i>ad valorem</i> basis.
28. Manganese:	
(a) Ore of all grades	Four point two per cent. of sale price on <i>ad valorem</i> basis.
(b) Concentrates	One point four per cent. of sale price on <i>ad valorem</i> basis.
29. Crude Mica, Waste Mica and Scrap Mica	Four per cent. of sale price on <i>ad valorem</i> basis.
30. Monazite	One hundred and twenty five rupees per tonne.
31. Nickel	Zero point one two per cent. of London Metal Exchange nickel metal price chargeable on contained nickel metal in ore produced.
32. Ochre	Twenty rupees per tonne.
33. Pyrites	Two per cent. of sale price on <i>ad valorem</i> basis.
34. Pyrophyllite	Twenty per cent. of sale price on <i>ad valorem</i> basis.
35. Quartz	Fifteen per cent. of sale price on <i>ad valorem</i> basis.
36. Ruby	Ten per cent. of sale price on <i>ad valorem</i> basis.
37. Silica sand, Moulding sand and Quartzite	Eight per cent. of sale price on <i>ad valorem</i> basis.
38. Sand for Stowing	Three rupees per tonne
39. Selenite	Ten per cent. of sale price on <i>ad valorem</i> basis.
40. Sillimanite	Two and half per cent. of sale price on <i>ad valorem</i> basis.

- |   |                    |   |
|---|--------------------|---|
| 41. Silver  |                    |   |
|   | (a) By-product     | Seven per cent. of London Metal Exchange price chargeable on by-product silver metal actually produced.   |
|   | (b) Primary silver | Five per cent. of London Metal Exchange silver metal price chargeable on the contained silver metal in ore produced.  |
| 42. Slate   |                    | Forty five rupees per tonne.  |
| 43. Talc, Steatite and Soapstone  |                    | Eighteen per cent. of sale price on <i>ad valorem</i> basis.  |
| 44. Tin   |                    | Seven point five per cent. of London Metal Exchange tin metal price chargeable on the contained tin metal in ore produced   |
| 45. Tungsten  |                    | Twenty rupees per unit per cent. of contained WO <sub>3</sub> per tonne of ore and on pro rata basis.   |
| 46. Uranium   |                    | Royalty on mineral uranium at the rate of two per cent. of the compensation amount received by M/s. Uranium Corporation of India Limited (UCIL), for the mineral uranium and the total amount of royalty will be apportioned among the different states on the basis of data provided by Department of Atomic Energy. |
| 47. Vanadium  |                    | Twenty per cent. of sale price on <i>ad valorem</i> basis.  |
| 48. Vermiculite   |                    | Three per cent. of sale price on <i>ad valorem</i> basis.   |
| 49. Wollastonite  |                    | Twelve per cent. of sale price on <i>ad valorem</i> basis.  |
| 50. Zinc  |                    | Eight per cent. of London Metal Exchange zinc metal price on <i>ad valorem</i> basis chargeable on contained zinc metal in ore produced.  |
|   |                    | Eight point four per cent. of London Metal Exchange zinc metal price on <i>ad valorem</i> basis chargeable on contained zinc metal in concentrate produced.   |
| 51. All other minerals not here-in-before specified [Agate, Chalk, Clay (Others), Corundum, Diaspore, Dunite, Felsite, Fuschite, Kyanite, Quartzite, Jasper, Perlite, Rock Salt, Shale, Pyroxenite, etc.] |                    | Ten per cent. of sale price on <i>ad valorem</i> basis.   |

*Explanation :*

1. For the purpose of grading of coal the specification of each grade of the coal shall be as prescribed under rule 3 of the Colliery Control Rules, 2004.

## THE THIRD SCHEDULE

(See section 42)

## RATES OF DEAD RENT

1. Rate of dead rent applicable to the leases granted for low value minerals are as under:

Rates of dead rent in rupees per hectare per annum		
From second years of lease	Third year and fourth year	Fifth year onward
200	500	1000

2. Two times the rate specified under (1) above in case of lease granted for medium value mineral(s).

3. Three times the rates specified under (1) above in case of lease granted for high value mineral(s).

4. Four times the rates specified under (1) above in case of lease granted for precious metals and stones.

Note : 1. For the purpose of this notification—

(a) “precious metals and stones” means gold, silver, diamond, ruby, sapphire and emerald, alexandrite and opal;

(b) “high value minerals” means semi-precious stones (agate, gem garnet), corundum, copper, lead, zinc, asbestos (chrysotile variety), platinum group of elements and mica;

(c) “medium value minerals” means chromite, manganese ore, kyanite, sillimanite, vermiculite, magnesite, wollastonite, perlite, diaspore, apatite, rock phosphate, fluorite (fluorspar) and barytes;

(d) “low value minerals” means minerals other than precious metals and stones, high value minerals and medium value minerals.

## STATEMENT OF OBJECTS AND REASONS

The Mines and Minerals (Regulation and Development) Act, 1957 was enacted so as to provide for the regulation of mines and development of minerals under the control of the Union. The aforesaid Act was amended in the years 1958, 1972, 1986, 1987, 1994 and 1999.

2. The first National Mineral Policy was enunciated by the Central Government in 1993 for liberalization of the mining sector. With the passage of time and the economic development of the country, which requires a vibrant energy, metal and commodities sector to meet the infrastructure, manufacturing and other sectoral demands, the nature and requirements of the mineral sector has changed. Based on the recommendations of a High Level Committee set up in the Planning Commission, Government of India, in consultation with State Governments, had replaced the National Mineral Policy, 1993 with a National Mineral Policy on the 13th March, 2008. The new National Mineral Policy provides for a change in the role of the Central Government and the State Governments particularly in relation to incentivizing private sector investment in exploration and mining and ensuring level playing field and transparency in the grant of concessions and promotion of scientific mining within a sustainable development framework so as to protect the interest of local population in mining areas. This necessitated a new legislation for harmonization with the new National Mineral Policy.

3. Since the existing law had already been amended several times and as further amendments may not clearly reflect the objects and reasons emanating from the new National Mineral Policy, it is considered necessary to reformulate the legislative framework in the light of the new National Mineral Policy, 2008 by repealing the Mines and Minerals (Regulation and Development) Act, 1957.

4. The salient features of the Mines and Minerals (Development and Regulation) Bill, 2011, *inter alia*, are as follows :—

(a) it provides for a simple and transparent mechanism for grant of mining lease or prospecting licence through competitive bidding in areas of known mineralization, and on the basis of first-in-time in areas where mineralization is not known;

(b) it enables the mining holders to adopt the advanced and sophisticated technologies for exploration of deep-seated and concealed mineral deposits, especially of metals in short supply through a new mineral concession;

(c) it enables the Central Government to promote scientific mineral development, through Mining Plans and Mine Closure Plans enforced by a central technical agency namely the Indian Bureau of Mines, as well as the Regulatory Authorities and Tribunals;

(d) it empowers the State Governments to cancel the existing concessions or debar a person from obtaining concession in future for preventing the illegal and irregular mining;

(e) it empowers the Central Government and State Governments to levy and collect cess;

(f) establishment of the Mineral Funds at National and State level for funding the activities pertaining to capacity building of regulatory bodies like Indian Bureau of Mines and for research and development issues in the mining areas;

(g) it provides for reservation of an area for the purpose of conservation of minerals;

(h) it enables the registered co-operatives for obtaining mineral concessions on small deposits in order to encourage tribals and small miners to enter into mining activities;

(i) it empowers the Central Government to institutionalise a statutory mechanism for ensuring sustainable mining with adequate concerns for environment and socio-economic issues in the mining areas, through a National Sustainable Development Framework;

(j) it provides for establishment of the National Mining Regulatory Authority which consists of a Chairperson and not more than nine members to advise the Government on rates of royalty, dead rent, benefit sharing with District Mineral Foundation, quality standards, and also conduct investigation and launch prosecution in cases of large scale illegal mining;

(k) it provides for establishment of the State Mining Regulatory Authority consisting of such persons as may be prescribed by the State Government to exercise the powers and functions in respect of minor minerals;

(l) it provides for establishment of a National Mining Tribunal and State Mining Tribunals to exercise jurisdiction, powers and authority conferred on it under the proposed legislation;

(m) it empowers the State Governments to constitute Special Courts for the purpose of providing speedy trial of the offences relating to illegal mining;

(n) it empowers the Central Government to intervene in the cases of illegal mining where the concerned State Government fails to take action against illegal mining;

(o) it provides for stringent punishments for contravention of certain provisions of the proposed legislation; and

(p) to repeal the Mines and Minerals (Development and Regulation) Act, 1957.

5. A notable feature of the Bill is to provide a simple mechanism which ensures that revenues from mining are shared with local communities at individual as well as community level so as to empower them, provide them with choices, enable them to create and maintain local infrastructure and better utilise infrastructure and other services provided for their benefit.

6. The Notes on clauses explain in detail the various provisions of the proposed Bill.

7. The Bill seeks to achieve the above objects.

DINSHA PATEL.

NEW DELHI;  
*The 23rd November, 2011.*

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PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION  
OF INDIA

[Copy of letter No. 16(83)/2009-M. VI/605 dated 15.11.2011 from Shri Dinsha Patel, Minister for Mines to the Secretary-General, Lok Sabha]

The President having been informed of the subject matter of the proposed Mines and Minerals (Development and Regulation) Bill, 2011, recommends the introduction of the Bill in the House under clause (1) of article 117 of the Constitution.

*Notes on Clauses*

*Clause 1.*— This clause relates to the short title, extent and commencement of the proposed legislation. This clause enables the Central Government to appoint a date with respect to the commencement of the proposed legislation. However, different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

*Clause 2.*— This clause relates to Declaration as to the expediency of Union control.

This clause provides a declaration that it is expedient in the public interest that the Union should take under its control the regulation of mines and mineral development to the extent provided in the proposed legislation.

*Clause 3.*— This clause defines certain expressions used in the Bill.

*Clause 4.*— This clause relates to reconnaissance, prospecting and mining operations to be under a licence or lease.

Sub-clause (1) of this clause provides that no person shall undertake any reconnaissance, prospecting, general exploration, detailed exploration or mining in respect of any major or minor minerals except under a non-exclusive reconnaissance licence, high-technology reconnaissance-cum-exploration licence, prospecting licence or mining lease in case of a major minerals or any other mineral concession in case of minor minerals, as the case may be, granted in accordance with the provisions of this Act and the rules made thereunder. The proviso to the said sub-clause provides that nothing in this sub-clause shall affect any reconnaissance, prospecting, general exploration, detailed exploration or mining operation undertaken in any area in accordance with the terms and conditions of a reconnaissance permit, prospecting licence or mining lease granted before the commencement of this Act.

Sub-clause (2) of this clause provides that no licence shall be necessary in respect of reconnaissance or prospecting operations undertaken by the Geological Survey of India, the Atomic Minerals Directorate, the Mineral Exploration Corporation Limited, the Singareni Collieries Limited, the Neyveli Lignite Corporation Limited and the Central Mine Planning and Design Institute Limited being a Government company within the meaning of section 617 of the Companies Act, 1956 or the Directorate of Mining and Geology (by whatever name called) of any State Government and such other Government agencies as may be notified by the Central Government from time to time in respect of any land where rights on minerals vest in the State Government. The proviso to the said sub-clause provides that all such operations shall be notified by the State Government and may be undertaken for a period not exceeding three years in respect of reconnaissance and six years in respect of prospecting, as may be specified in such notification. The proviso to the said sub-clause further provides that no such reconnaissance or prospecting shall be undertaken in an area for which a licence or mining lease has been granted or for which application for a grant of licence or mining lease is pending.

The *Explanation* to the said sub-clause provides that in respect of the Mineral Exploration Corporation Limited, the Singareni Collieries Limited, the Neyveli Lignite Corporation Limited, the Central Mine Planning and Design Institute Limited and the other Government agencies as may be notified under this sub-clause, the provisions of this sub-clause shall apply with respect to promotional work undertaken on behalf of the Central Government or the State Government, as the case may be.

Sub-clause (3) of this clause provides that no person shall be entitled to make any application for mineral concession in the area covered by the notification during the period specified in the notification issued under sub-clause (2), and on expiry of the said period or such earlier period as may be notified by the State Government, the area shall be deemed to be available for grant of mineral concessions.

Sub-clause (4) of this clause provides that in respect of land on which prospecting operations are conducted in accordance with the provisions of sub clause (2), before the expiry of the period specified in the notification issued by the State Government, the Central Government in case of coal minerals, and the State Government in case of all other minerals, may by notification invite competitive offers for grant of concession under clause 13 of this Act or may set aside the entire land or any portion of the land for a period not exceeding three years for grant of mineral concession under clause 13 and no application for grant of any mineral concession shall lie during this period or on the expiry thereof, except in accordance with a notification issued under sub-clause (1) or sub-clause (4) of clause 13 of this Act, as the case may be.

Sub-clause (5) of this clause provides that subject to the provisions of sub-clause (6), no mineral concession shall be granted except on an application made to the State Government after the date of the commencement of this Act in accordance with the provisions thereof along with the application fee and earnest money, in such form and manner as may be prescribed. The explanation to the said sub-clause provides that subject to the provisions of sub-clause (6), no mineral concession shall be granted except on an application made to the State Government from the date of the commencement of this Act along with the application fee and earnest money, in such form and manner as may be prescribed.

The *Explanation* to the said sub-clause also provides that the applicants who made the applications before the commencement of this Act shall be required to make fresh applications under this Act, and no right [except as otherwise provided under sub-clause (6)] shall accrue to such applicants under this Act by virtue of having made an application earlier, before such commencement.

Sub-clause (6) of this clause provides that the provisions of sub-clause (5) shall not be applicable in case of applications made in accordance with any law for the time being in force, prior to the commencement of the Act, (a) for grant of prospecting licence or a mining lease after completing exploration under a reconnaissance permit or a prospecting licence, as the case may be, or, (b) for which prior approval of the Central Government for grant of mineral concessions, has been given or, (c) where a letter of intent (by whatever name called) has been issued by the State Government to grant reconnaissance permit or prospecting licence or mining lease, as the case may be, and was pending grant of the concession under this Act for fulfilment of the conditions of the letter of intent, and the application for grant of the mineral concessions is pending with the State Government at the time of commencement of this Act.

Sub-clause (7) of this clause provides that in case a person submits his application for grant of mineral concession in respect of major as well as minor minerals in the same area, the application shall be considered for all the minerals applied for in accordance with the provisions of this Act applicable to major minerals.

Sub-clause (8) of this clause provides that no person shall transport or store, or cause to be transported or stored, any minerals otherwise than in accordance with the provisions of this Act and the rules made thereunder.

Sub-clause (9) of this clause provides that an application for grant of mining lease for atomic minerals may be considered and granted by the State Government after obtaining prior approval of the Department of Atomic Energy in such cases and in such manner as may be prescribed by the Central Government. The proviso to the said sub-clause provides that no lease shall be necessary in respect of mining of atomic minerals undertaken by the Atomic Minerals Directorate or such other Government agencies as may be notified by the Central Government from time to time.

Sub-clause (10) of this clause provides that in any reconnaissance or prospecting operations undertaken by the Geological Survey of India, the Atomic Minerals Directorate, the Mineral Exploration Corporation Limited, the Singareni Collieries Limited, the Neyveli Lignite Corporation Limited, the Central Mine Planning and Design Institute Limited and such other Government agencies, in accordance with the provisions of sub-clause (2), such

agency conducting the reconnaissance or prospecting operations shall publish, in such manner as may be prescribed by the Central Government, a report of the reconnaissance or prospecting operations and intimate the publication to the State Government in such manner as may be prescribed by the Central Government to enable the State Government to set aside the area under sub-clause (4) or notify the area under clause 13 for prospecting or mining, as the case may be. The proviso to the said sub-clause provides that where the State Government does not take a decision to set aside the area or notify the area under clause 13, it shall publish such data in its official website, that would be available to the general public in the manner as may be prescribed.

*Clause 5.*— This clause relates to the eligibility for grant of mineral concession.

Sub-clause (1) of this clause provides that no person shall be eligible for grant of a mineral concession unless such person is a citizen of India or a company as defined in sub-section (1) of section 3 of the Companies Act, 1956, or a firm registered under the Indian Partnership Act, 1932 and has registered himself with the Indian Bureau of Mines or the State Directorate or any other agency authorised by a notification issued by the Central Government, in such manner, as may be prescribed by the Central Government. The proviso to the said sub-clause provides that for the purposes of mineral concessions for small deposits in any area referred to in sub-clause (6) of clause 6, a cooperative society registered with the State Government under the law made by it and registered in accordance with the provisions of sub-clause (2) shall be eligible for grant of such mineral concession. The said proviso further provides that in respect of any concession or an application for grant or renewal of a mineral concession pending with the State Governments at the commencement of this Act in terms of sub-clause (6) of clause 4, the applicant of such application shall be given a reasonable opportunity to register with the Indian Bureau of Mines or the State Directorate as the case may be, within such time as may be notified and such application shall not be rejected solely on the ground of non-registration with the Indian Bureau of Mines or the State Directorate, as the case may be.

The *Explanation* to the said sub-clause provides that the firm or association or cooperative shall be eligible where all the members of such firm or association or cooperative are citizens of India.

Sub-clause (2) of this clause provides that subject to any notification issued under sub-clause (1), the registration process in respect of mineral concessions for,— (a) major minerals shall be administered by the Indian Bureau of Mines; (b) minor minerals shall be administered by the State Directorate; and (c) coal minerals shall be administered by the Central Government.

Sub-clause (3) of this clause provides that no person shall be entitled to operate a mineral concession if he contravenes any of the provisions of this Act or the rules made thereunder, which renders him ineligible for grant of a mineral concession.

The proviso to the said sub-clause provides that a person who is holding a mineral concession prior to the commencement of this Act shall not be deemed to be contravening the provisions of this Act and the rules made thereunder merely on account of the fact that the area of such concession is less than the mining area specified under clause 6 of the Act.

*Clause 6.*— This clause relates to the area limits for grant of mineral concession.

Sub-clause (1) of this clause provides that the maximum area which can be held under mineral concession at any time by a person in respect of any mineral or prescribed group of associated minerals in a State shall be, (a) ten thousand square kilometres in respect of non-exclusive reconnaissance licences; (b) five thousand square kilometres in respect of high-technology reconnaissance-cum-exploration licences; (c) five hundred square kilometres in respect of prospecting licences; and (d) one hundred square kilometres in respect of mining leases. The proviso to the said sub-clause provides that a high-technology reconnaissance-cum-exploration licence shall be granted for such group of associated minerals (other than iron, ore, bauxite, limestone, coal minerals or other bulk minerals) as may be prescribed by the Central Government, and subject to such general conditions regarding use of advanced



technologies and methodologies as may be notified from time to time by the Central Government. The said proviso further provides that in case of coal minerals, if the Central Government is of the opinion that in the interest of development of coal minerals, it is necessary so to do, it may, for reasons to be recorded in writing, permit any person to acquire one or more prospecting licence or mining lease covering an area in excess of the maximum area specified in sub-clause (1).

Sub-clause (2) of this clause provides that in respect of major minerals, the minimum area for grant of,— (a) a high-technology reconnaissance-cum-exploration licence shall be one hundred square kilometres; (b) a prospecting licence shall be one square kilometre; and (c) a mining lease shall be ten hectares.

Sub-clause (3) of this clause provides that in respect of minor minerals the minimum area for grant of,— (a) a non-exclusive reconnaissance or a prospecting licence shall be ten hectares; and (b) a mining lease shall be five hectares. The proviso to the said sub-clause provides that the State Government in consultation with the Ministry of Environment and Forest in the Central Government for reasons to be recorded in writing may, in respect of any area and any minor mineral, notify a minimum area other than the area specified in this sub-clause.

The *Explanation* to the said sub-clause provides that the area held by a person as a member of a co-operative society, company or other corporation and a Hindu Undivided Family and a partner of a firm or as an individual shall be jointly computed.

Sub-clause (4) of this clause provides that notwithstanding anything contained in sub-clauses (2) and (3), a person holding a high-technology reconnaissance-cum-exploration licence, or a prospecting licence or a mining lease shall be entitled to be considered and granted a high technology reconnaissance-cum-exploration licence or a prospecting licence for the same mineral for an area lower than the minimum area referred to in sub-clause (2) or sub-clause (3), as the case may be, in an area contiguous to the area already held by him under the licence or lease, as the case may be.

Sub-clause (5) of this clause provides that the holder of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, and prospecting licence shall surrender area out of such licence or leases annually, as may be specified in the licence, in the manner prescribed by the Central Government so that at the end of the last year after the commencement of operations of the non-exclusive reconnaissance licence, the area held does not exceed the maximum eligibility of the licence holder for a prospecting licence and at the end of the last year of the high technology reconnaissance-cum-exploration licence or prospecting licence, the area held does not exceed the maximum eligibility of the licence holder for a mining lease in accordance with the provisions of sub-clause (1).

Sub-clause (6) of this clause provides that no mining lease shall be granted in respect of any area which is not compact and contiguous or otherwise not suitable to scientific development. The proviso to the said sub-clause provides that in respect of small deposits not suitable to scientific mining in isolated patches, a mining lease may be granted for a cluster of such deposits within a defined area of not less than the area specified in sub-clause (2) or sub-clause (3), as the case may be, in accordance with such procedure and subject to such conditions as may be prescribed by the Central Government.

Sub-clause (7) of this clause provides that in case of the Scheduled area specified in the Fifth Schedule of the Constitution and the tribal area specified in the Sixth Schedule of the Constitution, the State Government may, by notification, give preference as may be specified in the notification in grant of mineral concessions on an area referred to in sub-clause (6) to a Co-operative of the Scheduled Tribes.

Sub-clause (8) of this clause provides that any rules made by the State Governments for minor minerals shall be in accordance with the provisions of sub-clauses (1) to (7).

*Clause 7.*— This clause relates to the period of grant and extension of licence and deposit of security.

Sub-clause (1) of this clause provides that a non-exclusive reconnaissance licence shall be granted for a period of not less than one year and not more than three years.

Sub-clause (2) of this clause provides that a high technology reconnaissance-cum-exploration licence shall be granted for a period of not less than three years and not more than six years. The proviso to the said sub-clause provides that the period may be extended, on an application made by the licensee for a further period not exceeding two years in respect of such part of the area as may be specified in the licence.

Sub-clause (3) of this clause provides a prospecting licence shall be granted for a period of not less than two years and not more than three years. The proviso to said sub-clause provides that the period may be extended on an application made by the licensee in respect of such part of area as may be specified in the licence for a further period of not exceeding two years.

Sub-clause (4) of this clause provides that a mining lease for a major mineral shall be granted for a period of not less than twenty years and not more than thirty years. The proviso to the said sub-clause provides that in an area which is already held under a mining lease and a new mineral is found in such area, the period of mining lease granted for such new mineral shall be co-terminus with the period of the existing mining lease. The proviso to the said sub-clause further provides that in the interest of mineral development, amalgamation of two or more adjoining leases held by a lessee may be approved by the authority competent to grant the lease and the period of the amalgamated leases shall be co-terminus with the period of lease which expires later.

Sub-clause (5) of this clause provides that a mining lease for a minor mineral shall be granted for a period not less than five years and may be extended for such period as may be notified by the State Government. The proviso to the said sub-clause provides that different periods may be specified for different minerals having regard to the nature and manner of occurrence of mineral deposits. The proviso to the said sub-clause also provides that where in respect of any minor mineral, a minimum area is notified in accordance with the provisions of sub-clause (3) of clause 6 or sub-clause (6) of clause (6), the State Government may notify a minimum period less than five years in consultation with the Central Government.

Sub-clause (6) of this clause provides that a mining lease for a major mineral may be extended, on an application made by the lessee, in respect of such part of the area as may be specified and for such period not exceeding twenty years at a time, as may be required to ensure full exploitation of the run-of-the-mine in a scientific manner. The proviso to the said sub-clause provides that no such extension shall be granted, except after approval in the prescribed manner, of a fresh mining plan for the area for which the lease is sought to be extended.

Sub-clause (7) of this clause provides that, for the purposes of sub-clause (6), all mining leases granted before the commencement of this Act, and which has not contravened any of the terms and conditions of a reconnaissance permit, prospecting licence or mining lease granted before the commencement of this Act, shall be considered for extension irrespective of the size of the area of such mining lease.

*Clause 8.*— This clause relates to the grant and extension of mineral concession.

Sub-clause (1) of this clause provides that in respect of any land in which the minerals vest in the Government (other than in respect of lands reserved under the provisions of Chapter VII),—(a) the State Government shall grant non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence and mining lease and extend the high technology reconnaissance-cum-exploration licence, prospecting licence and mining lease in accordance with the provisions of this Act and the rules made thereunder. The proviso to the said sub-clause provides that in respect of minor minerals, the

State Government may, by notification, restrict the grant of licence to such types of mineral concessions as are appropriate having regard to the nature of occurrence of the minor mineral. The proviso to the said sub-clause further provides that a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence and mining lease in respect of coal minerals, atomic minerals and beach sand minerals shall be granted and extended by the State Government with the prior approval of the Central Government.

Sub-clause (2) of this clause provides that every person, granted a licence or lease, as the case may be, under sub-clause (1), shall deposit such sum as security deposit as may be specified by the Central Government.

Sub-clause (3) of this clause provides that a non-exclusive reconnaissance licence shall not be issued in respect of any area held under a high technology reconnaissance-cum-exploration licence or a prospecting licence or a mining lease.

Sub-clause (4) of this clause provides that a prospecting licence shall not be issued in an area held under high technology reconnaissance-cum-exploration licence and *vice versa*.

Sub-clause (5) of this clause provides that a high technology reconnaissance-cum-exploration licence or a prospecting licence shall not be issued in respect of an area held under a mining lease.

Sub-clause (6) of this clause provides that a non-exclusive reconnaissance licence, high-technology reconnaissance-cum-exploration licence, prospecting licence or mining lease for coal minerals shall be granted by the State Government to a company approved by the Central Government on such terms and conditions as may be prescribed by it and such licence or lease be granted through competitive bidding and auction in such manner as may be prescribed by it. The proviso to the said sub-clause provides that the provisions of this sub-clause shall not be applicable for grant of mineral concession, (a) to a Government company or corporation for mining or such other specified end use; (b) to a company or corporation which has been awarded a power project (including Ultra Mega Power Project) on the basis of competitive bids for tariff.

Sub-clause (7) of this clause provides that the non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence and mining lease in respect of any mineral underlying the ocean within the territorial waters or the continental shelf of India shall be granted by the Central Government in accordance with the provisions of the law for the time being in force.

Sub-clause (8) of this clause provides that the State Government, and every holder of a mineral concession, shall make available data relating to grant, extension, relinquishment, termination and plan of operations in the official web site in such manner as may be prescribed by the Central Government.

Sub-clause (9) of this clause provides that for the purpose of this clause, the onus of proving that ownership of a mineral vest in a person other than the State Government shall be on the person making the claim.

*Clause 9.*— This clause relates to the prospecting licence and mining lease of an area under reconnaissance.

Sub-clause (1) of this clause provides that notwithstanding that a non-exclusive reconnaissance licensee is operating in such area, a high technology reconnaissance-cum-exploration licence, prospecting licence or a mining lease may be granted on that area under the provisions of this Act.

Sub-clause (2) of this clause provides that a non-exclusive reconnaissance licence holder who applies for a prospecting licence under sub-clause (7) of clause 22 shall, on grant of such licence, be entitled to get such areas vacated as may have been granted a prospecting licence to any person under sub-clause (1) subsequent to the grant of the non-exclusive

reconnaissance licence. The proviso to the said sub-clause provides that a person holding a high technology reconnaissance-cum-exploration licence or a person holding a prospecting licence granted under sub-clause (7) of clause 22 or a person granted a mining lease shall not be required to vacate the area.

*Clause 10.*— This clause relates to the special provisions in respect of atomic minerals.

Sub-clause (1) of this clause provides that notwithstanding anything contained in this Act, the holder of a high-technology reconnaissance-cum-exploration licence or a prospecting licence or mining lease for a mineral other than a minor mineral may also undertake incidental prospecting or mining operations in respect of atomic minerals in the area held, subject to the fulfilment of the following conditions, namely,— (a) if in the course of prospecting or mining operations, he discovers any atomic mineral, he shall within sixty days from the date of discovery of such mineral, report the fact of such discovery to the Atomic Minerals Directorate, the Geological Survey of India, the Indian Bureau of Mines and the State Directorate of the State in which the prospecting or mining operations are carried on or proposed to be carried on; (b) the quantities of atomic minerals recovered incidental to such prospecting or mining operations shall be collected and stacked separately and a report to that effect sent to the Atomic Minerals Directorate every three months for such further action to be taken by the licensee or lessee, as the case may be, which may be directed by the Atomic Minerals Directorate.

Sub-clause (2) of this clause provides that the licensee or lessee, as the case may be, referred to in sub-clause (1) shall, within a period of sixty days from the date of discovery of atomic mineral, apply to the Secretary, Department of Atomic Energy, Mumbai, along with the recommendations of the State Government, for grant of a licence to handle the said atomic minerals in accordance with the provisions of the Atomic Energy (Radiation Protection) Rules, 2004 made under the Atomic Energy Act, 1962, and on grant of such licence or grant of lease to handle, the licensee or lessee, as the case may be, may apply for inclusion of such atomic minerals in his licence or lease, as the case may be. The proviso to the said sub-clause provides that if in the opinion of the Department of Atomic Energy the atomic mineral recovered incidental to such prospecting or mining operations is not of an economically exploitable grade of the quantity found is significant, it shall not be necessary for the licensee or lessee to apply for inclusion of such atomic mineral in the licence or lease, as the case may, under the Act or the rules made thereunder for the atomic minerals.

Sub-clause (3) of this clause provides that in case of grant of a lease referred to in sub-clause (2), the lessee shall remove and dispose off the atomic mineral on payment of royalty to the State Government.

Sub-clause (4) of this clause provides that for obtaining a separate licence or lease for atomic minerals, the licensee or lessee, as the case may be, shall, within sixty days from the date of discovery of atomic mineral, apply to the Secretary, Department of Atomic Energy, Mumbai, along with the recommendations of the State Government, for grant of licence to handle the said atomic mineral in terms of Atomic Energy (Radiation Protection) Rules, 2004 made under the Atomic Energy Act, 1962 and no licence or lease be granted except in accordance with the conditions of such licence granted under the provisions of the Atomic Energy (Radiation Protection) Rules, 2004. The proviso to the said sub-clause provides that if in the opinion of the Department of Atomic Energy the atomic mineral recovered incidental to such prospecting or mining operations is not of an economically exploitable grade or the quantity found is insignificant, it shall not be necessary for the licensee or lessee to apply for inclusion of such atomic mineral in the licence or lease, as the case may be, under the Act or the rules made thereunder for the atomic minerals.

*Clause 11.*— This clause relates to the Mineral concession to be void if in contravention of Act.

Sub-clause (1) of this clause provides that any mineral concession granted, extended, held or acquired in contravention of the provisions of this Act or any rules or orders made thereunder, shall be void and of no effect, subject to the provisions of sub-clause (2).

Sub-clause (2) of this clause provides that where a person has acquired more than one non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence or mining lease, as the case may be, and the aggregate area covered by such licences or leases in respect of a mineral in a State, as the case may be, exceeds the maximum area permissible under clause 6, only that non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence or mining lease the acquisition of which has resulted in such maximum area being exceeded, shall be deemed to be void.

Sub-clause (3) of this clause provides that in every case where a mineral concession is void under sub-clause (1), the earnest money or security deposit as the case may be deposited in respect of that application shall stand forfeited, and the mineral concession shall be granted to the next eligible applicant or notified for grant of mineral concession, as the case may be, in accordance with the provisions of the Act.

*Clause 12.*— This clause relates to the cancellation of a mineral concession or disqualification.

Sub-clause (1) of this clause provides that in respect of any land in which minerals vest in the Government,—(a) where any person fails to conduct reconnaissance or high technology reconnaissance-cum-exploration or prospecting or mining operations in accordance with a reconnaissance, or exploration plan or a prospecting or mining plan, as the case may be, prepared in the manner provided in this clause, the State Government may after issuing a notice to show cause and giving him an opportunity of being heard, by an order, forfeit all or any part of the security deposit and may suspend, curtail or revoke the licence or lease having regard to the circumstances of the case. The *Explanation* of the said clause provides that the purposes of this sub-clause the framework of mining operations in respect of minor minerals not requiring a mining plan shall be deemed to be the mining plan; (b) in every case where a part or all of the security deposit has been forfeited, the licensee or the lessee, as the case may be, shall furnish security to make up the deficiency before recommencing the operations under the licence or lease, as the case may be; (c) without prejudice to the provisions contained in clauses (a) and (b), the State Government may also issue notice directing a person who fails to conduct reconnaissance or high technology reconnaissance-cum-exploration or prospecting or mining operations in accordance with the reconnaissance plan or an exploration plan or a prospecting or a mining plan, to show cause, and after giving him an opportunity of being heard, by an order, declare him to be ineligible for consideration for any mineral concession in accordance with the provisions of sub-clause (3) of clause 20 or sub-clause (3) of clause 22, as the case may be, for such period as it may specify, not exceeding five years, having regard to the circumstances; (d) where at the expiry of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence or prospecting licence, the licensee fails to comply with the conditions of the licence, the State Government may, within a period of six months from the date of expiry of the licence, or the time given for fulfilment of the conditions, whichever is later, issue a notice asking him to show cause, and after giving him an opportunity of being heard, by an order, forfeit all or any part of the security deposit and may declare him to be ineligible for consideration for any mineral concession in accordance with the provisions of sub-clause (3) of clause 20 or sub-clause (3) of clause 22, as the case may be, for such period as it may specify, not exceeding five years, having regard to the circumstances; (e) orders under this sub-clause shall be made by the State Government,— (i) in respect of any major mineral where the Indian Bureau of Mines has approved mining plan and mine closure plans, after consultation with the Indian Bureau of Mines on technical issues pertaining to such mining plan and mine closure plan, and, (ii) in case of coal minerals, atomic minerals and beach sand minerals, in consultation with the Central Government. The proviso to the said sub-clause provides that in case the Indian Bureau of Mines or the Central Government, as the case may be, does not express any opinion within a period of three months, the State Government may presume the concurrence of the Indian Bureau of Mines or the Central Government, as the case may be.

Sub-clause (2) of this clause provides that in respect of any mineral concession relating to a land where the minerals vest with a private person, and the operations are not conducted in accordance with the reconnaissance, prospecting or mining plan, as the case may be, the State Government may, in the interest of mineral conservation and development, after giving such private person an opportunity of being heard, issue a direction to him to suspend, curtail or revoke the mineral concession and take any other action in accordance with the terms and conditions thereof as may be specified in such direction.

*Clause 13.*— This clause relates to the Notification of certain areas for grant of mineral concessions.

Sub-clause (1) of this clause provides that in respect of any land where the minerals vest in the Government, the State Government shall, by notification, invite applications in the form of competitive offers for any mineral except coal minerals for grant of a prospecting licence over any area where reconnaissance has been conducted and sufficient evidence of enhanced mineralisation of the specified minerals has been established. The proviso to the said sub-clause provides that no application for a high technology reconnaissance-cum-exploration licence is pending relating to such area. The proviso to the said sub-clause further provides that no such notification shall be issued in respect of an area in which reconnaissance or exploration or prospecting operations was completed under a licence till lapse of the period of six months after the expiry of the licence unless the area has been relinquished. The proviso to the said sub-clause also provides that in case where no application is received on an area notified under sub-clause (1), State Government shall within a period of three months either re-notify the area or notify it as being available for grant of mineral concessions under clause 22.

Sub-clause (2) of this clause provides that where an application or applications for grant of prospecting licence has been filed on an area and the State Government has not issued any notification, the State Government may notify such area or areas within a period of one month from the date of receipt of the first application by amalgamating or expanding all or any of the applied areas, if required, in the interest of scientific mining, and the State Government may invite applications in the form of competitive offers for any mineral, except coal and atomic minerals for grant of a prospecting licence. The proviso to the said sub-clause provides that the area so notified shall not include any area for which there has been or is an application pending for more than one month prior on the date of the notification. The proviso to the said sub-clause further provides that where the State Government has notified an area, it shall provide an opportunity to an applicant who filed an application prior to such notification within a period of one month from the date of the provisional determination of the best offer for the purposes of sub-clause (4) and to submit a competitive offer in terms of the said notification after being informed of the details of the best offer received by the State Government subsequent to the said notification of the area, and the State Government shall consider the applications in accordance with the provisions of sub-clause (4) and grant the licence to the best overall offer. The proviso to the said sub-clause also provides that only those applicants who had applied *suo moto* without any notification of such area by the State Government shall be afforded an opportunity to submit a competitive offer under the second proviso, and any such offer shall be limited in respect of only the area notified irrespective of the areas for which such applicant had applied earlier and where the State Government fails to notify the area within the specified period under this sub-clause, the applications for grant of prospecting licence shall be considered in accordance with the provisions of clause 22.

Sub-clause (3) of this clause provides that a notification issued under sub-clause (1) may specify that any application received shall be considered with reference to such criteria including all or any one or more of the following as per weightages assigned, as may be specified in the notification, namely,— (a) specific knowledge and experience of prospecting possessed or accessed by the applicant; (b) nature and quality of technical resources proposed to be employed; (c) value addition such as mineral processing and beneficiation;

(d) end use including industries based on the mineral; (e) provision of ore-linkage through long-term agreements with domestic industry; (f) in the case of prospecting for iron ore, bauxite and limestone, having finished products production capacity at the time of commencement of this Act and captive ore resources which are likely to be exhausted in the near future; (g) a financial bid quoted either as a lump sum recoverable in instalments at the time of mining or a percentage of royalty or a profit sharing of mineral production.

The *Explanation* to the said sub-clause provides that the financial bid shall offer the State Government to recover a value for its efforts in managing information relating to survey or regional exploration work including computer databases and samples for minerals and for the mineral on the basis of market consideration to be based on a floor price set by the State Government on the available reconnaissance data and the weightage shall be numerical in character and enable a composite ranking based on numerical marks assigned for each of the criteria listed in the notification in order to determine the best offer.

Sub-clause (4) of this clause provides that the applications received in accordance with the conditions specified in the notification issued under sub-clauses (1), (2) and (3) shall be considered in accordance with such criteria and weightage as specified in the notification, and the eligible applicant obtaining the best marks as per weightages, shall be granted the prospecting licence in accordance with the rules made under this Act. The proviso to the said sub-clause provides that the licence may include special condition under which a mining lease shall be granted on an application made under sub-clause (3) of clause 25 including, restrictions arising from value-additions or ore-linkage or restrictions on sale of ore in the case of captive resources.

Sub-clause (5) of this clause provides that in such areas where prospecting has been conducted and sufficient evidence of enhanced mineralisation has been established through a prospecting report and feasibility study, and where no application for a mining lease is pending, the State Government shall by notification invite applications in the form of competitive bids for any minerals excepting coal minerals, for grant of mining lease, to the bidder who in accordance with the provisions of sub-clause (6) quotes the best financial bid including the bid for the prospecting report and feasibility study for the area so notified. The proviso to the said sub-clause provides that no such notification shall be issued in respect of an area in which prospecting operations was completed under a licence till the period of six months after expiry of the licence unless the area has been relinquished. The proviso to the said sub-clause further provides that before issuing the notification under this sub-clause in respect of any forest or wildlife area, the State Government shall obtain,— (i) all forest clearances under the Forest (Conservation) Act, 1980 and wildlife clearance under the Wild Life (Protection) Act, 1972, or any other law for the time being in force, so as to enable the commencement of operations, and (ii) all necessary permissions from the owners of the land and those having occupation rights.

The *Explanation* to the said sub-clause provides that for the purposes of sub-clause (5) the financial bid shall offer the State Government either as a lump sum, recoverable in instalments or a percentage of royalty or a profit sharing, as may be specified in the notification, and the purpose of the financial bid for the prospecting report and feasibility study is to allow the State Governments to recover a value for its efforts in acquiring and managing information through detailed survey, exploration, feasibility studies, including computer databases, and cores and samples, computer databases and samples for minerals; and for the mineral on the basis of market consideration to be based on a floor price set by the State Government on the available prospecting data.

Sub-clause (6) of this clause provides that a notification issued under sub-clause (5) may specify that bids received shall be considered with reference to such criteria including any of the following, as per weightages assigned, as may be specified in such notification, namely,— (a) special knowledge and appropriate experience in scientific mining and mineral beneficiation; (b) bringing new and advanced technologies; (c) investments in value addition such as mineral processing and beneficiation; (d) having industrial capacity based on the



mineral or having set up industry based on the mineral and achieved financial closure for such project; (e) providing ore-linkage through long-term agreements with domestic industry; (f) constructing transportation networks (road and rail) and other infrastructure facilities in the mineral bearing area; (g) in the case of iron ore, bauxite and limestone, having finished products production capacity at the time of commencement of the Act and captive ore resources which are likely to be exhausted in the near future; (h) financial bid for the prospecting report and feasibility study for the area so notified.

The *Explanation* to the said sub-clause provides that for the purpose of determination of best bid, the weightage shall be numerical in character and enable a composite ranking based on bid price and numerical marks assigned for each of criteria specified in the notification.

Sub-clause (7) of this clause provides that the bids received under sub-clause (5) shall be evaluated in the prescribed manner and the best eligible bid shall be issued the letter of intent for awarding the mining lease after obtaining all necessary statutory approvals and clearances, on such conditions as may be specified having regard to the criteria stated in the notification issued under sub-clause (5) and the response thereto.

Sub-clause (8) of this clause provides that in respect of atomic minerals and beach sand minerals, notification inviting applications and grant of the mineral concession shall be made with the prior approval of the Central Government.

Sub-clause (9) of this clause provides that in respect of coal minerals, notification for inviting and grant of mineral concessions shall be made by the Central Government in such manner as may be prescribed by it.

Sub-clause (10) of this clause provides that notwithstanding anything contained in this clause, notification of an area for inviting applications in respect of public lands in areas covered by Fifth Schedule or Sixth Schedule to the Constitution, shall be issued after consultation with the Gram Sabhas or District Councils, as the case may be, and in respect of non-scheduled areas, after consultation with the District Panchayat.

Sub-clause (11) of this clause provides that the State Government shall invite and entertain applications for grant of high technology reconnaissance-cum-exploration licence or prospecting licence in an area relinquished by a holder of high technology reconnaissance-cum-exploration licence or a prospecting licence only after such area is notified by the State Government for inviting applications for grant of high technology reconnaissance-cum-exploration licence or a prospecting licence under the provisions of sub-clause (1) of clause 13 or notified as being available for grant of concessions for the purpose of clause 22. The proviso to the said sub-clause provides that if the State Government does not notify such relinquished area within three months of relinquishment, any person interested may apply to the State Government and in case it fails to notify the area within a further period of three months, the applicant may apply to the National Mining Tribunal in case of major minerals and State Mining Tribunal in case of minor minerals for notification of that area and the concerned Tribunal may direct the State Government to notify the area within such period as it may specify.

Sub-clause (12) of this clause provides that the procedure for notifying an area for inviting applications for major minerals and grant of mineral concessions shall be such as may be prescribed by the Central Government.

Sub-clause (13) of this clause provides that in respect of minor minerals, notwithstanding anything in this clause, the procedure for notification and grant of mineral concessions shall be such as may be prescribed by the State Government. The proviso to the said sub-clause provides that before granting mineral concession for minor minerals in an area covered by the Fifth Schedule or the Sixth Schedule to the Constitution, the Gram Sabha or the District Council, as the case may be, shall be consulted.



*Clause 14.*— This clause relates to the time limit for disposal of applications for grant of mineral concessions.

Sub-clause (1) of this clause provides that in respect of any lands where the minerals vest in the Government, the State Government shall dispose off the applications for grant of non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence or prospecting licence within the following period reckoned from the date of receipt of applications, namely,— (a) within a period of three months in respect of non-exclusive reconnaissance licence; (b) within a period of four months in respect of high technology reconnaissance-cum-exploration licence and prospecting licence.

The *Explanation* to the said sub-clause provides that where applications for prospecting licence are received in response to a notification under sub-clause (1) or sub-clause (2) or sub-clause (3) of clause 13, the time period for disposal shall be reckoned from the last date notified for receipt of applications.

Sub-clause (2) of this clause provides that the State Government shall dispose off the applications for grant of mining lease in the following manner and within the time limit specified hereunder, namely,— (a) a letter of intent shall be issued within four months; (i) from the opening of bids in respect of applications received under clause 13; (ii) from date of application in respect of application received under clause 25; and (b) the mining lease shall be executed within three months of intimation by means of a written communication by the applicant holding the letter of intent of his having obtained all clearances and approvals specified in the letter of intent.

Sub-clause (3) of this clause provides that in any matter requiring the prior approval of the Central Government, the matter shall be disposed off by the Central Government within a period of three months, and the State Government shall issue a letter of intent in any case, where issue of such letter of intent is contingent on prior approval, within a period of one month from the date of such approval.

Sub-clause (4) of this clause provides that where any application or written communication is deficient in information or documentation, the State Government shall, by notice issued within sixty days of receipt thereof, require the applicant to supply the omission within such period as may be specified having regard to the nature of the document or information, but not being a period of less than fifteen days and not more than sixty days, and such period is excluded from the time limits specified in sub-clauses (1) and (2).

Sub-clause (5) of this clause provides that where an applicant for mineral concession fails to furnish documents and information as required under sub-clause (4) for processing the application or written communication, the State Government after issuing a notice to show cause and giving him an opportunity of being heard, may by order forfeit the earnest money and reject his application for grant of mineral concession.

Sub-clause (6) of this clause provides that where an application is not disposed off within the limit specified in sub-clauses (1), (2) or (3) subject to the provisions of sub-clause (4), the applicant may apply to the National Mining Tribunal in the case of major minerals and the State Mining Tribunal in case of minor minerals, for a direction to the Central Government or State Government, as the case may be, to dispose off the application within such reasonable period as may be specified by the National Mining Tribunal or the State Mining Tribunal, as the case may be.

*Clause 15.*— This clause relates to the rights of a holder of non-exclusive reconnaissance licence, prospecting licence or mining lease.

This clause provides that on issue of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence or mining lease under this Act, it shall be lawful for the holder of such licence or lease, his agents or his servants or workmen to enter the lands over which such licence or lease had been granted at all times during its currency and carry out all such reconnaissance, prospecting or mining

operations as permitted. The proviso to the said clause provides that no person shall enter into any building or upon an enclosed court or garden attached to a dwelling-house (except with the consent of the occupier thereof) without previously giving such occupier at least seven days notice in writing of his intention to do so.

*Clause 16.*— This clause relates to the Act and rules to apply to all extension of mineral concessions.

This clause provides that the provisions of this Act and the rules made thereunder shall apply in relation to the extension after the commencement of this Act of any prospecting licence or mining lease granted before such commencement as they apply in relation to the extension of a prospecting licence or mining lease granted after such commencement.

*Clause 17.*— This clause relates to the Transfer of non-exclusive reconnaissance licence and prospecting licence.

Sub-clause (1) of this clause provides that a holder of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence or prospecting licence may, except in the case of coal minerals, atomic minerals and beach sand minerals, after the expiry of a notice of not less than ninety days to the State Government concerned, transfer his licence to any person eligible to hold such licence in accordance with the provisions of this Act and the rules made thereunder. The proviso to the said sub-clause provides that the holder of a prospecting licence, granted prior to the commencement of this Act and valid under the provisions of this Act, may after giving a notice of not less than ninety days to the State Government concerned, transfer his prospecting licence only to a person holding a prospecting licence or mining lease in the adjoining area, and any transfer in contravention of this proviso shall be void. The proviso to the said clause further provides that the original licensee shall intimate to the State Government the consideration payable or paid by the successor-in-interest for the transfer, including the consideration in respect of the reconnaissance of prospecting operations already undertaken and the reports and data generated during the operations. The proviso to the said sub-clause also provides that no such transfer shall take place if the State Government, within the period specified in the notice for reasons to be communicated in writing, disapproves the transfer on the grounds that the transferee is not eligible as per the provisions of the Act.

Sub-clause (2) of this clause provides that a non-exclusive reconnaissance licence or high technology reconnaissance-cum-exploration licence or prospecting licence in respect of coal minerals, atomic minerals and beach sand minerals shall be transferred with the prior approval of the Central Government.

Sub-clause (3) of this clause provides that on transfer of the licence, all rights and liabilities of, and under, the licence shall be transferred to the successor-in-interest.

Sub-clause (4) of this clause provides that subject to the provisions of the sub-clause (1), the holder of a licence may transfer his rights and liabilities within a period of six months after the expiry of the mineral concession period to a person eligible under the Act to hold a licence.

Sub-clause (5) of this clause provides that on transfer of rights and liabilities, the successor-in-interest shall be entitled to consideration in terms of clause 22 or clause 25 as the case may be, as if he was the original holder of the mineral concession.

Sub-clause (6) of this clause provides that the State Government may charge such fees for transfer of the mineral concession as may be prescribed by the Central Government.

Sub-clause (7) of this clause provides that nothing contained in this clause shall be deemed to enable a holder of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence or a prospecting licence, in respect of land where the minerals vest in a private person, to transfer such licence other than in accordance with the terms and conditions of the mineral concession agreement.

*Clause 18.*— This clause relates to the Transfer of a mining lease.

Sub-clause (1) of this clause provides that the holder of a mining lease shall not, without the previous approval in writing of the State Government, and in the case of coal minerals, atomic minerals and beach sand minerals, the previous approval in writing of the Central Government,— (a) assign, sublet, mortgage, or in any other manner, transfer the mining lease, or any right, title or interest therein; or (b) enter into or make any arrangement, contract, or understanding whereby the lessee may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or undertakings may be substantially controlled by any person or body of persons other than the lessee. The proviso to the said sub-clause provides that where the mortgagee is an institution or a bank or a corporation notified for the purpose by the Central Government under this Act, it shall not be necessary for the lessee to obtain any such approval of the State Government.

Sub-clause (2) of this clause provides that where a holder a mining lease has filed an application to the State Government for approval of transfer of a mining lease, the State Government, if it is of the opinion, having regard to the prospecting report if any, and approved Mining Plan and mining schemes and other related documents filed by the mining lease holder, that the amount of consideration between the transferor and the transferee is not adequate may issue notification in such manner as may be specified by the State Government, inviting competitive financial bids within one month of filing of the application for transfer, giving a last date, which shall not be more than thirty days from the date of notification, to the interested persons eligible under the Act to submit their financial bids for the mining lease sought to be transferred.

Sub-clause (3) of this clause provides that in all cases where notification has been issued by the State Government as per sub-clause (2), it shall, complete the evaluation of bids within a period of one month from the last date specific in the notification and,— (a) permit the holder of mining lease who has applied for transfer of mining lease to transfer the lease to the transferee at the amount of consideration stated in application in case the bid amount of the highest eligible bidder is not greater by twenty per cent. than the amount of consideration stated by the holder of mining lease; or (b) direct the holder of mining lease who has applied for transfer of mining lease to transfer the lease to the highest eligible bidder in case the bid is higher than the consideration amount by more than twenty per cent. and the highest eligible bidder shall pay to such holder of mining lease, a sum equal to the amount of consideration stated in the application for transfer along with an additional amount equal to twenty per cent. thereof; and the remaining amount of bid shall be paid to the State Government in such manner as may be prescribed by the Central Government. The proviso to the said sub-clause provides that in all cases of applications for transfer of a mining lease granted by the State Government prior to the commencement of this Act by invoking the provisions of clause (5) of section 11 of the Mines and Minerals (Development and Regulation) Act, 1957, the State Government may collect an additional fee, as may be prescribed by the Central Government, for the transfer. The proviso to the said sub-clause further provides that in case the State Government is not able to complete the process in the time specified, the holder of the mining lease may apply to the National Mining Tribunal for directions in the matter. The *Explanation* to the sub-clause provides that the highest eligible bidder shall be a person who gave the highest bid and is eligible to be granted the mining lease on the day of the determination of the bids.

Sub-clause (4) of this clause provides that the State Government or the Central Government, as the case may be, shall not give its approval to transfer of a mining lease unless the transferee has accepted all the conditions and liabilities under any law for the time being in force to which the transferor was subject to in respect of such mining lease.

Sub-clause (5) of this clause provides that no transfer of a mining lease shall be made to a person not eligible under this Act to hold the lease and no transfer be made by a person in contravention of the condition of, and subject to which the lease was granted.

Sub-clause (6) of this clause provides that an application for transfer of mining lease shall,— (a) state the reason for the transfer; (b) the consideration for the transfer; (c) have attached to it, an agreement between the holder of mining lease who has applied for transfer of mining lease and the transferee setting out the terms and conditions of the offer and acceptance with a validity period of at least six months from the date of application; (d) state whether the mining lease had been granted prior to the commencement of this Act by invoking the provisions of sub-clause (5) of clause 11 of the Mines and Minerals (Development and Regulation) Act, 1857; and (e) give such other particulars as may be prescribed by the Central Government.

Sub-clause (7) of this clause provides that no transfer of a mining lease shall be permitted, if,— (a) it leads to fragmentation or unscientific mining; (b) it is not in the interest of mineral development; (c) it is against the national interest.

Sub-clause (8) of this clause provides that where the mining lease is in respect of land where the minerals vest in a private person, no transfer shall be permitted except in accordance with the terms and conditions of the mineral concession agreement in regard to the consent of such person.

Sub-clause (9) of this clause provides that the State Government may charge fees for the transfer of mining lease in case of major minerals as may be prescribed by the Central Government and in case of minor minerals as may be prescribed by the State Government.

Sub-clause (10) of this clause provides that the Central Government and the State Government shall take into account the consideration payable by the transferee to the transferor while prescribing the fee under sub-clause (7).

*Clause 19.*— This clause relates to the conditions of a non-exclusive reconnaissance licence.

Sub-clause (1) of this clause provides that in respect of every non-exclusive reconnaissance licence granted for major and minor minerals under this Act and the rules made thereunder, the licence holder shall,— (a) progressively relinquish the area granted under the licence as shall be specified in accordance with the provisions of this Act and the rules made thereunder; (b) file a reconnaissance plan in case of major minerals other than coal minerals with the Geological Survey of India, the Indian Bureau of Mines, and the State Directorate, and in case of coal minerals with the Central Government, and in case of minor minerals with the State Directorate concerned in such manner as may be prescribed by the Central Government, which shall include,— (i) the particulars of the area such as aerial extent, in terms of latitude and longitude; (ii) the scale of the plan and the area of geological mapping; the particulars of the machines and instruments to be used, and the nature of the data proposed to be collected; (iii) a quarterly plan of operations; and (iv) the quarterly detailed projection of expenditure on the operations. The proviso to the said sub-clause provides that in respect of minerals other than coal minerals, atomic and beach sand minerals, with the prior approval of the State Directorate and in case of coal minerals, atomic minerals, beach sand minerals with the prior approval of Central Government, the licence holder may modify the plan of operations or the State Directorate or the Central Government, as the case may be, may direct the licensee to modify his plan of operations, if it appears that ground operations proposed may be in conflict with the ground operations of another licensee who has already filed his plan. The *Explanation* to the sub-clause provides that, the quarterly plan of operations shall be prepared so as to exclude overlapping of ground operation of the non-exclusive licence holders who have already filed the plan of operations for the area; (c) make available all data including all the aerial, photo-geological, geophysical, geochemical and such other data collected by him to the Geological Survey of India, the State Directorate and in case of coal minerals to the Central Government, in such manner and within such intervals as may be prescribed by the Central Government; (d) in case radiometric instruments are used, make available all radiometric data available to the Atomic Minerals Directorate; (e) maintain detailed and accurate accounts of all the expenses incurred by him on the

reconnaissance operations; (f) submit reports to the Geological Survey of India, the Indian Bureau of Mines, the State Directorate and in case of coal minerals, atomic minerals, beach sand minerals to the Central Government, in such manner and within such intervals as may be prescribed by it and while submitting reports, the licence holder may specify that the whole or any part of the report or data submitted by him shall be kept confidential; and the Geological Survey of India, the Indian Bureau of Mines, the State Directorate, and in case of coal minerals, the Central Government, thereupon, keep the specified portions as confidential for a period of six months from the expiry of the licence, or abandonment of operations or termination of the licence, whichever is earlier; (g) allow every officer authorised by the Central Government or the State Government as the case may be, in case of major minerals and the State Governments in case of minor minerals, so as to examine the accounts maintained; (h) furnish to the Geological Survey of India, Indian Bureau of Mines, and the State Directorate in case of major minerals, in case of coal minerals, atomic minerals, beach sand minerals to the Central Government, and in case of minor minerals to the State Directorate concerned, such information and returns as may be required in relation to the reconnaissance operations; (i) allow any officer authorised by the Geological Survey of India or the State Directorate in case of major minerals and the officers of State Directorate in the case of minor minerals to inspect any reconnaissance operations carried on by the licence holder; (j) pay to the State Government in respect of land in which minerals vest in the Government, and to the person in whom the minerals vests in other cases, a licence fee as may be notified by the Central Government, being an amount of not less than fifty rupees per square kilometre per year and not more than five hundred rupees per square kilometre per year or part thereof. The proviso to the said sub-clause provides that the notification of the Central Government may specify a rate that may be different for each of the successive years; (k) obtain clearance from the Ministry of Defence in the Central Government, in case any Defence establishments lies in the area proposed for exploration; (l) comply with such other conditions as may be prescribed by the Central Government.

Sub-clause (2) of this clause provides that the non exclusive reconnaissance licence may contain such other general conditions as may be prescribed in the interest of public safety or national security by the Central Government which, *inter alia*, may include the condition that a representative of the Directorate General, the Civil Aviation or the Ministry of Defence shall be present during the aerial surveys.

Sub-clause (3) of this clause provides that the Central Government in case of coal minerals and the Indian Bureau of Mines in case of other major minerals may issue direction to a non exclusive reconnaissance licence holder to ensure compliance with the conditions of the licence and the licence holder shall be bound to comply with such directions.

Sub-clause (4) of this clause provides that the licence holder shall before starting operations, deposit as security an amount equal to the licence fee levied for the first year and in case of breach of any condition imposed on a holder of a non-exclusive reconnaissance licence by or under this Act, the State Government may by order in writing, suspend, curtail or revoke the licence, and may forfeit in whole or in part, the amount deposited by the licence holder as security. The proviso to the said sub-clause provides that no such order shall be made without issuing a notice to the licence holder to show cause and giving him a reasonable opportunity of being heard. The proviso to the said sub-clause further provides that in case of land in which the minerals vest in a person other than the Government, the State Government shall give such person an opportunity of being heard and may issue directions to him to suspend, curtail or revoke the mineral concession or forfeit the security in accordance with the terms and conditions of the mineral concession agreement.

Sub-clause (5) of this clause provides that in every case where a part or all of the security deposit has been forfeited, the licensee, shall furnish security deposit to make up the deficiency before recommencing operations under the licence.

Sub-clause (6) of this clause provides that any amount deposited as security deposit in accordance with the provisions of sub-clause (3) shall unless forfeited, be returned to the

licensee at the end of the six months period following the expiry or termination of the licence. The proviso to the said sub-clause provides that in case the return of the security or such part thereof as may be payable takes place more than thirty days after the expiry of the six months period, a simple interest at the rate of six per cent. per annum shall be payable for the period beyond thirty days.

*Clause 20.*— This clause relates to the procedure for grant of non-exclusive reconnaissance licence.

Sub-clause (1) of this clause provides that an application for grant of a non-exclusive reconnaissance licence in respect of any land in which the minerals vest in the Government shall be made to the State Government concerned in such form and manner, along with such application fee and the earnest money as may be prescribed by the Central Government.

Sub-clause (2) of this clause provides that the State Government shall acknowledge the receipt of the applications and cause them to be registered in such manner as may be prescribed by the Central Government in a register that shall be open to inspection by the public.

Sub-clause (3) of this clause provides that the State Government shall grant the non-exclusive reconnaissance licence to every applicant who is eligible in accordance with the provisions of this Act and the rules made thereunder.

Sub-clause (4) of this clause provides that in all cases where the State Government refuses an application, it shall communicate the reasons therefor. The proviso to the said sub-clause provides that no application shall be refused,— (a) without communicating the grounds and giving the applicant an opportunity to represent within a reasonable period of not less than thirty days; and (b) on grounds of incompleteness of material particulars without requiring the applicant to supply the requisite documents or information.

Sub-clause (5) of this clause provides that grant of every non-exclusive reconnaissance licence shall be notified in the Official Gazette, and in the official website by the State Government.

*Clause 21.*— This clause relates to conditions of a high-technology reconnaissance-cum-exploration licence and prospecting licence.

Sub-clause (1) of this clause provides that in respect of every high-technology reconnaissance-cum-exploration licence granted for major minerals and prospecting licence granted for major minerals and minor minerals under this Act and the rules made thereunder, the licence holder shall,— (a) progressively relinquish the area granted under the licence as shall be specified in accordance with the provisions of the Act and the rules made thereunder, (b) prepare and file an exploration plan in respect of a high technology reconnaissance-cum-exploration licence or a prospecting plan in case of a prospecting licence with the Geological Survey of India, the Indian Bureau of Mines and the State Directorate in respect of major minerals (other than coal minerals and in case of coal minerals) with the Central Government, and the State Directorate in the case of minor minerals including such particulars and, in such manner as may be prescribed by the Central Government, which shall include,— (i) the particulars of the area being prospected; (ii) the scale of the plan and the area of geological mapping; (iii) a six monthly plan of operations including,— (a) the number of pits, trenches, and bore holes which he proposes to put in the area; (b) the number of samples proposed to be drawn and analysed; (c) the particulars of the machines to be used; (d) the details of exploratory mining if any, proposed to be undertaken; (e) the beneficiation studies proposed to be undertaken; (iv) appropriate baseline information of prevailing environmental conditions before the beginning of prospecting operations; (v) steps proposed to be taken for protection of environment which shall include prevention and control of air and water pollution, progressive reclamation and rehabilitation of the land disturbed by the prospecting operations, a scheme for the plantation of trees, restoration of local flora and water regimes and such other measures, as may be directed from time to time by the Indian Bureau of Mines

or the State Directorate as the case may be for minimizing the adverse effect of prospecting operations on the environment; (vi) the details of the six monthly expenditure to be incurred on the operations; (vii) any other matter relevant for scientific prospecting, as directed by the Indian Bureau of Mines or the State Directorate, as the case may be, from time to time by a general or specific order. The proviso to the said sub-clause provides that the exploration plan shall be filed with the Geological Survey of India in respect of high-technology reconnaissance-cum-exploration licence, in such manner as may be notified by the Geological Survey of India from time to time; (c) carry out the prospecting operations in accordance with the exploration plan or a prospecting plan submitted by him, with such modifications, if any, as directed by the Indian Bureau of Mines or the State Directorate and in case of coal minerals the Central Government, as the case may be. The proviso to the said sub-clause provides that where the licensee proposes to conduct prospecting operations in a manner at variance with the plan already submitted, he shall prepare and file a revised or supplementary exploration or a prospecting plan in such manner as may be prescribed by the Central Government; (d) make available all data collected by him during prospecting operations to the Geological Survey of India, Indian Bureau of Mines and the State Directorate, in case of coal minerals to the Central Government, and in case of atomic minerals, to the Atomic Minerals Directorate in such manner as may be prescribed by the Central Government. The proviso to the said sub-clause further provides that such data shall be made available to the Geological Survey of India in respect of high-technology reconnaissance-cum-exploration licence, to such an extent as may be notified by the Geological Survey of India from time to time; (e) maintain complete and correct accounts of all the expenses incurred by him during the prospecting operations; (f) submit a report on progress of operations under the exploration plan or prospecting plan to the Indian Bureau of Mines and the State Directorate and in case of coal minerals to the Central Government, in such manner and intervals as may be prescribed by the Central Government; (g) pay to the State Government in respect of any land in which the minerals vest with it, and to the person in whom the minerals vest in other case such prospecting fee, as may be notified by the Central Government, being an amount not exceeding rupees fifty per hectare of land covered by the licence for each year or part of a year of the period for which the licence is granted or extended. The proviso to the said sub-clause also provides that the notification of the Central Government may specify a rate that may be different for each of the successive years; (h) within three months after the determination of the licence or the date of abandonment of the prospecting operations, whichever is earlier, securely plug all bores and fill up or fence all excavations in the land covered by the licence. The proviso to the said item provides that if in any part of the area the licensee receives a letter of intent for grant of mining lease within this period he may carry out such amount of work as may be consistent with the mining operations under such lease; (i) in case the minerals vest in the Government, report to the State Directorate the discovery of any mineral not specified in the licence within a period of sixty days from the date of such discovery and consequent upon such reporting, such newly discovered minerals (except coal minerals, atomic minerals and beach sand mineral) are deemed to have been included in the high technology reconnaissance-cum-exploration licence or a prospecting licence, as the case may be. The proviso to the said item provides that in case of high technology reconnaissance-cum-exploration licence, only major minerals other than iron ore, bauxite, limestone, coal minerals or other bulk minerals may be included in the licence; (j) take immediate measures, in such manner as may be prescribed by the Central Government, to restore, as far as possible and at least to the extent given in the exploration plan or prospecting plan, the areas in which prospecting operations have been conducted, including replacement of soil cover, removal of contaminants and pollutants introduced during prospecting operations, restoration of local flora and water regimes in such manner as may be prescribed by the Central Government; (k) pay to the person holding occupation rights of the surface of the land such compensation as may be notified; (l) obtain clearance from the Central Government in the Ministry of Defence, in case the Defence establishments are situated in the area proposed for exploration; (m) comply with such other conditions as may be prescribed by the Central Government.



Sub-clause (2) of this clause provides that a high technology reconnaissance-cum-exploration licence or a prospecting licence may contain such other general conditions which are as follows, namely,— (a) compensation for damage to land in respect of which the licence has been granted; (b) indemnity to Government against the claims of a third party for any damage, injury or disturbance caused to him by the licensee; (c) restrictions regarding felling of trees on occupied and unreserved Government land; (d) restrictions on prospecting operations in any area prohibited by any competent authority; (e) operations in a reserved or protected forest; (f) entry on occupied land; (g) facilities to be given by the licensee for working other minerals in the licence area or adjacent areas; and (h) filing of civil suits or petitions relating to disputes arising out of the area under the high technology reconnaissance-cum-exploration licence or a prospecting licence to ensure compliance with the conditions of the licence and the licence holder shall comply with such directions.

Sub-clause (3) of this clause provides that the Central Government in case of coal minerals and the Indian Bureau of Mines in case of other major minerals or the State Directorate may issue directions to a holder of a high-technology reconnaissance-cum-exploration licence or a prospecting licence to ensure compliance with the conditions of the licence and the licence holder shall comply with such conditions.

Sub-clause (4) of this clause provides that before grant of a high-technology reconnaissance-cum-exploration licence or prospecting licence, the applicant shall deposit a sum equal to the licence fee as security for the first year and in case of breach of any condition imposed on any holder of a high-technology reconnaissance-cum-exploration licence or a prospecting licence by or under this Act, the State Government may, by order in writing, suspend, curtail or cancel the licence and may forfeit, in whole or part, the amount deposited by the licensee. The proviso to the said sub-clause provides that no such order shall be made without issuing a notice to the licensee to show cause and giving him a reasonable opportunity of being heard. The proviso to the said sub-clause further provides that in case of land in which the minerals vest in a private person, the State Government shall afford such person an opportunity of being heard and may issue directions to him to suspend, curtail or revoke the mineral concession or forfeit the security in accordance with the terms and conditions thereof.

Sub-clause (5) of this clause provides that in every case where a part or all of the security deposit has been forfeited, the licensee shall furnish security to make up the deficiency before recommencing operations under the licence.

Sub-clause (6) of this clause provides that any amount deposited as security, in accordance with the provisions of sub-clause (4), shall unless forfeited, be returned to the licensee at the end of six months after the expiry or termination of the licence, as the case may be. The proviso to the said sub-clause provides that in case the return of the security or such part thereof as may be payable takes place more than thirty days after the expiry of the said period of six months, a simple interest at the rate of six per cent. per annum shall be payable by the State Government for the period beyond thirty days.

*Clause 22.*—This clause relates to the procedure for grant of high-technology reconnaissance-cum-exploration licence and prospecting licence.

Sub-clause (1) of this clause provides that applications for grant of a high-technology reconnaissance-cum-exploration licence or prospecting licence in respect of any land in which minerals vest in the Government shall be made to the State Government concerned in such form and manner, along with such fee and earnest money as may be prescribed by the Central Government.

Sub-clause (2) of this clause provides that the State Government shall acknowledge the receipt of the application and the same shall be recorded in a register in such manner, as may be prescribed by the Central Government, which shall be open to public for inspection in such manner as may be specified by it.

Sub-clause (3) of this clause provides that the State Government shall consider only such applications as are eligible in accordance with the provisions under this Act and the



rules made thereunder and refuse all ineligible applications for reasons to be communicated to the applicants. The proviso to the said sub-clause provides that the applications received later to the first eligible application in respect of an area shall not be considered till disposal of all applications received earlier and communication to the applicants of the reasons for the disposal. The proviso to the said sub-clause further provides that in case of grant of prospecting licence, such applications shall also be subject to the provisions of sub-clause (7).

Sub-clause (4) of this clause provides that except in the case of applications for prospecting licences received in response to a notification under sub-clause (1) of clause 13 of this Act, the State Government shall grant the high-technology reconnaissance-cum-exploration licence or prospecting licence in respect of the land to the first applicant eligible under this Act and the rules made thereunder and all other applicants be deemed to have been refused to the extent of the area granted to the first applicant. The proviso to the said sub-clause provides that in case of prospecting licence, such applications shall also be subject to the provisions of sub-clause (7).

Sub-clause (5) of this clause provides that in all cases where the State Government refuses an application and proceeds to consider a subsequent application, it shall communicate the reasons therefor. The proviso to the said sub-clause provides that no application shall be refused,— (a) without communicating the grounds and giving the applicant an opportunity to represent within a reasonable period of not less than thirty days; and (b) on grounds of incomplete material particulars in the application, without requiring the applicant to supply the requisite documents or information.

Sub-clause (6) of this clause provides that in case of grant of prospecting licence, the application shall not be refused on the ground that other applications have been received for grant of non-exclusive reconnaissance licence or high-technology reconnaissance-cum-exploration licence in the area applied.

Sub-clause (7) of this clause provides that in case of grant of prospecting licence, the application of a person eligible under this Act, made within six months of completion of reconnaissance operations under a non-exclusive reconnaissance licence held by him or held by his predecessor-in-interest has the first right to the exclusion of other applications notwithstanding anything in sub-clauses (3) and (4) to the contrary and where there is more than one such application for the same land, the application received later shall not be considered till disposal of all applications received earlier and communication of reasons for the disposal, and the State Government shall grant the licence to the earliest applicant eligible for the licence. The explanation to the said sub-clause provides that the person who intends to invest in reconnaissance operations, directly or by acquiring the reconnaissance data shall have the legitimate expectation that his investment will enable him to acquire prospecting rights to the exclusion of a person who makes no such investment.

Sub-clause (8) of this clause provides that grant of every high-technology reconnaissance-cum-exploration licence or a prospecting licence shall be notified in the Official Gazette and in the official website of the State Government.

*Clause 23.*—This clause relates to the issue of notification where prospecting operations are to be undertaken by the Geological Survey of India, etc.

Sub-clause (1) of this clause provides that where a reconnaissance or prospecting operation in respect of lands in which minerals vest in the Government is to be undertaken by the Geological Survey of India, the Atomic Minerals Directorate, the State Directorate, the Mineral Exploration Corporation Limited, the Singareni Collieries Limited or the Neyveli Lignite Corporation Limited, the Central Mine Planning and Design Institute Limited or such other agencies as may be notified in this behalf, under clause 4, the State Government shall issue a notification giving details of the area, and the period for which the reconnaissance or the prospecting operations are to be undertaken. The proviso to the said sub-clause provides that such period shall not be for more than six years.

Sub-clause (2) of this clause provides that the agency undertaking prospecting operation shall make a report for every six months of its progress of reconnaissance or prospecting in such manner as may be prescribed by the Central Government, and submit the reconnaissance or prospecting report and the geological study, pre-feasibility study or feasibility study, as the case may be, to the State Government at the end of the reconnaissance or prospecting operations in such manner and such terms and conditions as may be prescribed by the Central Government.

Sub-clause (3) of this clause provides that the State Government may revoke a notification issued under sub-clause (1), if the reconnaissance or prospecting operations have been completed before the expiry of the period stated in the notification.

Sub-clause (4) of this clause provides that the State Government shall not entertain any application for grant of any non-exclusive reconnaissance licence or high-technology reconnaissance-cum-exploration licence or prospecting licence or mining lease to any person for an area or part thereof in relation to which a notification has been issued under sub-clause (1), for the period that the notification is in operation, and such application is deemed never to have been made.

*Clause 24.*—This clause relates to the conditions of a mining lease.

Sub-clause (1) of this clause provides that every mining lease for a major mineral or a minor mineral shall be subject to the fulfilment of the following conditions, namely,— (a) all mining operations shall be in accordance with a mining plan prepared in accordance with the provisions of this Act or the rules made thereunder; (b) the lessee shall report to the State Government, the discovery of any mineral in the leased area not specified in the lease for which rights vest in the Government, within a period of sixty days of such discovery; (c) if any mineral not specified in the lease is discovered in the leased area, the lessee shall not win and dispose of such mineral unless such mineral is included in the lease or a separate lease is obtained therefor; (d) the lessee shall pay to the State Government in case of land in which minerals vest in the State Government and to the person in whom the minerals vest in other cases, for every year or part thereof, except the first year of the lease, yearly dead rent at the rate specified in the Third Schedule of the Act subject to the provisions of clause 42 of the Act. The proviso to the said sub-clause provides that if the lease or licence relates to the working of more than one mineral in the same area, the State Government or the person in whom the minerals vest in other cases, as the case may be, shall not charge separate dead rent in respect of each mineral. The proviso to the said sub-clause further provides that the lessee shall be liable to pay the dead rent or royalty in respect of each mineral whichever is higher in amount but not both; (e) the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent and water rate at such rate, as may be prescribed by the State Government; (f) the lessee shall furnish the following in such manner and in such period as may be prescribed by the Central Government, namely,— (i) all geological, geochemical and geophysical and hydrological data relating to the leased area collected by him during the course of operations to the Indian Bureau of Mines and the State Directorate and in case of coal minerals to the Central Government; (ii) all information pertaining to investigations of atomic minerals collected by him during the course of mining operations to the Atomic Minerals Directorate; (g) the lessee shall commence mining operations within a period of two years from the date of execution of the lease and thereafter conduct such operations in a scientific, skillful and workman-like manner.

The *Explanation* to the said sub-clause provides that mining operations shall include the erection of machinery, laying of a tramway or construction of a road in connection with the working of the mine; (h) the lessee shall,— (i) at his own expense, erect and at all times maintain and repair boundary marks and pillars necessary to indicate the demarcation shown in the plan annexed to the lease; (ii) not carry on, or allow to be carried on, any mining operations at any point within a distance of fifty metres from any railway line, except under and in accordance with the written permission of the railway administration concerned or under or beneath any ropeway or ropeway trestle or station, except under and in accordance

with the written permission of the authority owning the ropeway or from any reservoir, canal or other public works, or buildings, except under and in accordance with the previous permission of the State Government; (iii) strengthen and support, to the satisfaction of the railway administration concerned or the State Government, as the case may be, any part of the mine which in its opinion requires such strengthening or support for the safety of any railway, reservoir, canal, roads or any other public works or buildings; (i) the lessee shall keep accurate and correct accounts showing the quantity and other particulars of all minerals obtained and dispatched from the mine, the number and nationality of the persons employed therein, and complete plans of the mine, and allow any officer authorised by the Central Government or the State Government, as the case may be in this behalf, by general or special order, to examine at any time any accounts, plans and records maintained by him and furnish the Central or the State Government, as the case may be, with such information and returns as it or any officer authorised by it in this behalf may require; (j) the lessee shall keep in such manner and in respect of such matters as may be prescribed by the Central Government, accurate records of all trenches, pits and drillings made by him in the course of mining operations carried on by him under the lease, and allow any officer authorised by the Central Government or the State Government, as the case may be, in this behalf by general or special order to inspect the same; (k) the lessee shall allow any officer authorised by the Central Government or the State Government, as the case may be, in this behalf by general or special order to enter upon any building, excavation or land comprised in the lease for the purpose of inspecting the same; (l) the lessee shall carry on his operations in accordance with the approved mining plan and take immediate measures in such manner as may be prescribed by the Central Government to restore, as far as possible and at least to the extent given in the mining plan, the areas in which mining operations have been conducted, including replacement of soil cover, removal of contaminants and pollutants introduced during mining operations, restoration of local flora, and water regimes in such manner as may be prescribed by the Central Government; (m) the lessee shall pay to the District Mineral Foundation such amount as specified in sub-clause (2) of clause 43; (n) the lessee shall deposit with the State Government in case of major minerals that vest in the Government, an amount calculated at the rate of rupees one lakh per hectare of the lease area payable in equal instalments over the mining plan period as security for due observance of the terms and conditions of the lease. The proviso to the said sub-clause provides that the Central Government may from time to time, by notification, vary the amount of the deposit in respect of leases granted after such notification. The proviso to the said sub-clause further provides that in case the mineral vests in a person other than the Government, such person shall require to deposit such sum not less than the rate specified in the first proviso. The proviso to the said sub-clause also provides that in case of small deposits the lessee shall be required to pay security deposit for the broken up area, mineral storage and waste and over-burden area in the mining lease as per the rate prescribed by the Central Government in this sub-clause. The proviso to the said sub-clause also provides that in the case of minor minerals the deposit shall be such as may be notified by the State Government and the provisions of this clause apply *mutatis mutandis* to minor minerals; (o) the lessee shall set up a grievance redressal mechanism in such manner as may be prescribed by the Central Government, to address concerns of persons affected by mining operations in accordance with the requirements of the Sustainable Development Framework in terms of clause 46; (p) the lessee shall comply with such other conditions as may be prescribed by the Central Government.

Sub-clause (2) of this clause provides that the Indian Bureau of Mines or the State Directorate may issue directions to a lessee to ensure compliance with the conditions of the lease and the lessee shall comply with such directions.

Sub-clause (3) of this clause provides that if the lessee does not allow entry or inspection in respect of any matter covered under sub-clause (1), or does not comply with directions issued under sub-clause (2) where it relates to land in which minerals vest in the Government, the State Government shall give notice in writing to the lessee requiring him to show cause within such time as may be specified in the notice, which is not less than two days and not more than fifteen days, as to why the lease not be determined and his security deposit

forfeited, and if the lessee fails to show cause within the aforesaid time to the satisfaction of the State Government, in respect of land in which mineral vest in the Government, the State Government may determine the lease and forfeit the whole or part of the security deposit. The proviso to the said sub-clause provides that in respect of any land in which the minerals vest in a person other than the Government, the Government may, after giving an opportunity of being heard to such person, direct him to determine the lease and forfeit the whole or part of the security deposit.

Sub-clause (4) of this clause provides that if the lessee makes any default in the payment of royalty as required under clause 41 or payment of dead rent as required under clause 42 or payment of compensation to the District Mineral Foundation as required under clause 43 or payment of cess as required under clause 45 or clause 46 or commits a breach of any of the conditions specified in sub-clause (1), the State Government shall give a show cause notice to the lessee requiring him to pay the royalty or dead rent or payment of compensation to District Mineral Foundation or cess, as the case may be, along with interest at the rate of fifteen per cent. per annum or remedy the breach, as the case may be, within a period of thirty days from the date of the receipt of the notice and if the royalty or dead rent or payment of compensation to District Mineral Foundation or cess is not duly paid along with the interest or the breach is not remedied within the said period, the State Government in case the minerals vest in it, may without prejudice to any other proceedings that may be taken against him, determine the lease and forfeit the whole or part of the security deposit. The proviso to the said sub-clause provides that in respect of land where the minerals vest in a person other than the Government, the Government may, after giving an opportunity of being heard to such person, direct him to determine the lease and forfeit the whole or part of the security deposit.

Sub-clause (5) of this clause provides that in every case where part or all of the security has been forfeited the lessee shall furnish security to make up the deficiency before recommencing operations.

Sub-clause (6) of this clause provides that any amount deposited as security deposit in accordance with the provisions of sub-clause (4) shall, unless forfeited, be returned to the lessee at the end of the six months period after the expiry or termination of the lease. The proviso to the said sub-clause provides that in case the return of the security deposit or such part thereof as may be payable takes place more than thirty days after the expiry of the six months period, simple interest at the rate of six per cent. per annum shall be payable for the period beyond thirty days.

*Clause 25.*—This clause relates to the procedure for grant of mining lease.

Sub-clause (1) of this clause provides that the mining lease in respect of land in which minerals vest in the Government shall, except in case where a mining lease is granted in accordance with the provisions of sub-clause (5) of clause 13, be granted only on application made by a person who has held a high-technology reconnaissance-cum-exploration licence or a prospecting licence for the area and no other applications shall be entertained in this regard.

Sub-clause (2) of this clause provides that the State Government shall acknowledge the receipt of the application and the same shall be registered in a register in such manner, as may be prescribed by the Central Government, which shall be open to public for inspection in such manner as may be specified by it.

Sub-clause (3) of this clause provides that the application of a person, eligible under this Act, made within six months of completion of operations under a high-technology reconnaissance-cum-exploration licence or prospecting licence held by him or held by his predecessor-in-interest shall be approved for grant of mining lease subject to eligibility and the fulfilment of general conditions as may be prescribed by the Central Government, and such special conditions as specified under sub-clause (3) of clause 13. The proviso to the said sub-clause provides that in case such application for mining lease is rejected, no other application shall be considered and the area shall be notified for grant of mineral concession under sub-clause (1) or sub-clause (5) of clause 13, as the case may be.

Sub-clause (4) of this clause provides that in every case of an approval for grant of mining lease under sub-clause (3), the State Government shall issue a letter of intent to the applicant enabling him to obtain the statutory approvals and clearances necessary for the execution of the lease deed.

Sub-clause (5) of this clause provides that grant of every lease shall be notified in the Official Gazette and in the official website of the State Government.

*Clause 26.*—This clause relates to the mining operations to be in accordance with mining plan.

Sub-clause (1) of this clause provides that subject to the provisions of this Act and rules made thereunder, mining operations shall be undertaken in accordance with a mining plan, prepared for the entire leased area in such manner as may be prescribed by the Central Government, which may include scientific methods of mining within a Sustainable Development Framework, beneficiation and economic utilisation and induction of technology to ensure extraction and best utilisation of the run of the mine. The proviso to the said sub-clause provides that a mining Plan shall not be required in respect of such minor minerals as are notified for the purpose by the State Government in consultation with the Indian Bureau of Mines. The proviso to the said sub-clause further provides that in respect of any minor mineral for which a mining plan is not required, the State Government, in consultation with the Indian Bureau of Mines, shall prescribe a framework with which mining operations be carried out and the mining framework deemed to be in the nature of a general directions issued under clause 46 of this Act. The proviso to the said sub-clause also provides that for the purposes of clause 12, and clause 24, the framework shall be deemed to be the mining plan.

Sub-clause (2) of this clause provides that on acceptance of an application for a mining lease, and before the execution of the lease, the applicant shall cause to be prepared and approved a mining plan for the entire area proposed to be granted for lease in such manner as may be prescribed by the Central Government.

Sub-clause (3) of this clause provides that without prejudice to the generality of the provisions of the mining plan, there shall be attached to the mining plan in respect of all major minerals, a corporate social responsibility document, comprising of a scheme for annual expenditure by the lessee on socio-economic activities in and around the mine area for the benefit of the host population in the Panchayats adjoining the lease area and for enabling and facilitating self employment opportunities, for such population, and the lease holder shall, at the end of each financial year, publish in his annual report and display on the website, the activities undertaken during the year and the expenditure incurred thereon.

Sub-clause (4) of this clause provides that no mining plan shall be approved, unless it is prepared by a qualified person or firm or other association of persons empanelled in this behalf in such manner as may be prescribed by the Central Government.

Sub-clause (5) of this clause provides that no person shall be empanelled for purposes of sub-clause (4) unless he,— (a) is qualified as a mining engineer or geologist; (b) has fulfilled the requisite experience as may be prescribed by the Central Government; and (c) meets such other requirements as may be prescribed by the Central Government in order to further the objective of scientific mining. The provisos to the said sub-clause provides that the Central Government may prescribe different eligibility conditions and other condition of accreditation for different grades of persons or companies based on the nature and quality of expertise.

Sub-clause (6) of this clause provides that the mining plan for major minerals shall, except in case of coal minerals and atomic minerals, be approved by officers of the Indian Bureau of Mines, authorised by general orders in this behalf by the Controller General, and for minor minerals the plan shall be approved by officers of the State Directorate authorised in this behalf, by the general order of the State Government.

The proviso to the said sub-clause provides that the Central Government may, on being satisfied that the State Directorate possesses the necessary technical and management capability as may be prescribed, empower the State Directorate to grant approvals for such major minerals and in such circumstances as may be specified in the notification. The proviso to the said sub-clause further provides that in case the Central Government, at any time, is of the opinion that the State Directorate does not possess the requisite technical and management capability, it may suspend or revoke the power granted and may direct it to be exercised by officers of the Indian Bureau of Mines in accordance with the provisions of this sub-clause.

Sub-clause (7) of this clause provides that any person aggrieved by the approval or refusal under sub-clause (6) in respect of a mining plan for major minerals other than coal and atomic minerals, may apply to the Controller General, the Indian Bureau of Mines, for reversal or modification of such an order and the Controller General may confirm, modify or set aside the order or direction in respect of the mining plan.

Sub-clause (8) of this clause provides that any person aggrieved by the order or direction under sub-clause (6) in respect of a mining plan or a framework for minor minerals may apply to the Director of the State Directorate for cancellation or modification of such an order and the Director may confirm, modify or set aside the order or direction in respect of the mining plan or framework, as the case may be.

Sub-clause (9) of this clause provides that no person shall conduct mining operations in any area except in accordance with a mining plan as approved under this Act.

Sub-clause (10) of this clause provides that the Controller General or authorised officer of the Indian Bureau of Mines or the officer authorised in this behalf by the State Directorate, as the case may be, may require the holder of a mining lease to make such modifications in the mining plan or impose such conditions as may be considered necessary by an order in writing if such modifications or imposition of conditions are considered necessary,— (a) in the light of the experience of operation of mining plan; and (b) in view of the change in the technological environment.

Sub-clause (11) of this clause provides that in respect of coal minerals and atomic minerals, the provisions of this clause shall be applied *mutatis mutandis* by the Central Government.

*Clause 27.*— This clause relates to the rights of a lessee.

This clause provides that subject to the provisions of this Act or any law for the time being in force, the lessee with respect to the land leased to him shall have the right for the purpose of mining operations on that land, to— (a) work the mines; (b) sink pits and shafts and construct buildings and roads; (c) erect plant and machinery; (d) quarry and obtain building material and road materials and make bricks; (e) use water and take timber; (f) use land for stacking purpose; (g) install fuel pumps or stations for diesel or petrol for own use; (h) construct magazine for explosives, and storage sheds for explosive related substances with permission from the licensing authority concerned; (i) store overburden material in areas identified for the purpose; (j) divert public roads, overhead electric lines passing through the lease area, to facilitate scientific mining, and; (k) do any other thing as specified in the lease.

*Clause 28.*— This clause relates to the extension of mining lease.

Sub-clause (1) of this clause provides that an application for the extension of a mining lease shall be made in such manner as may be prescribed by the State Government through such officer or authority as it may specify in this behalf, or the person in whom the minerals vest, as the case may be, at least twenty four months before the date on which the lease is due to expire.

Sub-clause (2) of this clause provides that the extension of a lease which was granted with the prior approval of the Central Government shall be extended with the prior approval of the Central Government.

Sub-clause (3) of this clause provides that an application for extension made under sub-clause (1) shall be disposed of by the authority competent to grant a lease for the mineral within twelve months from the date of receipt of the application and the provisions of sub-clauses (4), (5) and (6) of clause 14 shall, *mutatis mutandis*, apply to applications for extension. The proviso to the said sub-clause provides that before granting approval for a second or subsequent extension of a mining lease, in respect of land in which minerals vest in the Government, the State Government shall seek a report from the Indian Bureau of Mines in respect of major minerals other than coal and atomic minerals and the State Directorate in the case of minor minerals, as to whether it is in the interest of mineral development to grant the extension of the mining lease. The proviso to the said sub-clause further provides that in case a report is not received from the Indian Bureau of Mines within a period of three months of receipt of the communication from the State Government, it would be deemed that the Indian Bureau of Mines has no objection to the grant of extension of the mining lease.

Sub-clause (4) of this clause provides that if an application for the extension of a mining lease made within the time referred to in sub-clause (1) is not disposed off by the State Government before the date of expiry of the lease, the period of the lease shall be deemed to have been extended till the State Government passes an order thereon or the person in whom the minerals vest communicates his approval or rejection of the application, as the case may be.

Sub-clause (5) of this clause provides that the State Government may, by an order condone the delay in an application for extension of mining lease made after the time limit specified in sub-clause (1) if the application has been made before the expiry of the lease and there are sufficient reasons, to be recorded in writing, to condone the delay, and the provisions of sub-clause (4) shall be applicable in such case.

*Clause 29.*—This clause relates to the lapsing of leases and revival.

Sub-clause (1) of this clause provides that subject to the provisions of this clause, in respect of land in which the minerals vest in the Government, where mining operations are not commenced within a period of two years from the date of execution of the lease, or discontinued for a continuous period of two years after the commencement of such operations, the State Government may after issuing a notice to the lease holder to show cause and giving him an opportunity of being heard, declare that the lease has lapsed and without prejudice to the foregoing, the State Government on being satisfied that the lessee did not show due diligence, may also declare him to be in breach of the conditions of such lease and, therefore, ineligible for consideration under sub-clause (3) of clause 20 or sub-clause (3) of clause 22 or sub-clause (3) of clause 25, as the case may be, for such period not exceeding five years as may be specified, having regard to the nature of the breach.

Sub-clause (2) of this clause provides that a lessee who is unable to commence the mining operations within a period of two years from the date of execution of the mining lease, or discontinues mining operations for a period exceeding two years for reasons beyond his control, may, at least three months before the expiry of such period, seek extension of period for commencing or recommencing mining operations, as the case may be, and the State Government on being satisfied the adequacy and genuineness of the reasons for non-commencement of mining operations or discontinuance thereof, pass an order condoning the period of delay in commencement or recommencement of the mining operations, as the case may be. The proviso to the said sub-clause provides that such an order shall be passed by the State Government within a period of three months from the date of receipt of the application.

Sub-clause (3) of this clause provides that a lessee who is unable to commence the mining operations within a period of two years from the date of execution of the mining lease, or discontinues mining operations for a period of exceeding two years for reasons beyond his control, may within a period of six months from the date of its lapse, seek revival of the lease and the State Government on being satisfied about the adequacy of the reasons for



non-commencement of mining operations or discontinuance, may pass an order reviving the lease. The proviso to the said sub-clause provides that such an order shall be passed within a period of six months from the date of making an application for revival. The proviso to the said sub-clause further provides that the lease has not been revived earlier under this sub-clause for more than twice during the entire period of the lease. The proviso to the said sub-clause further provides that in respect of coal, atomic minerals and beach sand minerals, prior approval of the Central Government shall be obtained before orders are issued under this clause.

Sub-clause (4) of this clause provides that the manner, the procedures for condonation of delay and the reasons for commencement or recommencement in respect of matters specified in sub-clauses (2) and (3) shall be such as may be prescribed by the Central Government.

Sub-clause (5) of this clause provides that any person aggrieved by an order, passed by the State Government under sub-clause (3) of this clause provides that clauses (1), (2) or (3) or by failure of the State Government to pass an order within the sub-clause (3) of this clause provides that period specified therein, may apply to the National Mining Tribunal or State Mining Tribunal, as the case may be, and the Tribunal concerned may issue appropriate direction.

*Clause 30.*—This clause relates to the determination of lease.

Sub-clause (1) of this clause provides that a lessee shall not determine the lease except after notice in writing of not less than twelve calendar months to the State Government or to such officer, or the authority as the State Government may specify in this behalf in respect of land in which minerals vest with the Government and to the person in whom the minerals vest in other cases, in accordance with the terms and conditions of the mineral concession. The proviso to the said sub-clause provides that where a lessee, holding a mining lease for a mineral or for a group of minerals, applies for the surrender of the lease or part area thereof or any mineral from the lease on the ground that deposits of that mineral have since exhausted or depleted to such an extent that it is no longer economical to work the mineral, he shall give notice of not less than six months and the State Government or the person in whom the minerals vest, as the case may be, may permit the lessee to surrender that lease or part area thereof or minerals, as the case may be, subject to conditions as may be prescribed by the Central Government.

Sub-clause (2) of this clause provides that in every case where a lease is determined or surrendered under sub-clause (1) the lessee at his own cost prepare and implement a Final Mine Closure Plan in accordance with the provisions of clause 32 and shall close the mine or part thereof in accordance with the provisions of clause 33.

Sub-clause (3) of this clause provides that in respect of any land in which the minerals vest in the Government, in the event of breach of any of the conditions of the lease, the State Government may by an order, after giving an opportunity of being heard to the lessee, determine the lease or forfeit in whole or in part, the amount deposited as security by the lessee, and in case the lease is determined shall direct the lessee to prepare and implement a Final Mine Closure Plan in accordance with the provisions of the clauses 32 and 33, and in the event of his failure to do so, may prepare and implement the Plan at the cost of the lessee.

Sub-clause (4) of this clause provides that where it appears to the Central Government, upon any investigation conducted by a Central Government agency under the National Investigation Agency Act, 2009 or any other law for the time being in force, that the mining activities in any area under lease is related to or aiding or abetting organised crime or anti-national activities of outlawed or insurrectionist organisations or that such mining activities is prejudicial to the national security, it may, for reasons to be recorded in writing, direct the State Government to determine mining lease and the State Government shall determine the lease forthwith, and shall issue a direction to the person in whom the minerals vest in all other cases, to determine the lease.



Sub-clause (5) of this clause provides that in respect of any land in which the minerals vests in a private person where the lease is determined due to breach of any of the conditions of the lease, such person shall prepare and implement the Final Mine Closure Plan at his cost.

Sub-clause (6) of this clause provides that any person aggrieved by an order, made under sub-clause (3) or sub-clause (4), may apply to the National Mining Tribunal in respect of an order issued by the Central Government or an order issued by the State Government, as the case may be, in respect of major mineral, and to the State Mining Tribunal in respect of minor mineral, and the National Mining Tribunal or the State Mining Tribunal, as the case may be, may after giving an opportunity of being heard to the party, confirm, modify or set aside the order.

*Clause 31.*—This clause relates to the premature termination of lease.

Sub-clause (1) of this clause provides that where the State Government is of the opinion that it is in the public interest or in the interest of public safety to do so, it may for reasons to be recorded in writing make an order of premature termination of the mining lease in case the minerals vest in the Government, and issue a direction to this effect to the person in whom the minerals vest in other cases. The proviso to the said sub-clause provides that no premature termination of a mining lease shall be made without giving the lessee a reasonable opportunity of being heard.

Sub-clause (2) of this clause provides that in every case of premature termination of a lease, made under sub-clause (1), the State Government shall, having regard to the nature of the loss caused to the lessee, compensate the lessee in such manner as may be prescribed by the Central Government.

Sub-clause (3) of this clause provides that a person aggrieved by an order under sub-clause (1) or sub-clause (2) may apply to the National Mining Tribunal in case of major minerals and the State Mining Tribunal in case of minor minerals, for revision, modification or cancellation of such order, and the National Mining Tribunal or the State Mining Tribunal, as the case may be, may pass such order as may be appropriate.

*Clause 32.*—This clause relates to the Mine Closure Plan.

Sub-clause (1) of this clause provides that every mining lease shall have a Mine Closure Plan prepared in terms of a Sustainable Development Framework, which shall consist of:—(i) a progressive mine closure plan for each mine; and (ii) a Final Mine Closure Plan.

Sub-clause (2) of this clause provides that every Mine Closure Plan shall be available for inspection by the public in the office of the authority competent to approve such a Plan, and also in the office of the Panchayat having jurisdiction and such other places as may be notified.

Sub-clause (3) of this clause provides that a Progressive Mine Closure Plan shall be prepared for each mine for a period of five years at a time commencing with the period of the lease, and for every period of five years thereafter, in such manner as may be prescribed by the Central Government. The proviso to the said sub-clause provides that the Progressive Mine Closure Plan shall include details of closure, rehabilitation and restoration activities proposed to be carried out in the five year period and the projected investments in this respect, except in the case of the first Progressive Mine Closure Plan, the details of activities actually carried out and the expenditure incurred in each of the preceding Progressive Closure Plans.

Sub-clause (4) of this clause provides that the lessee shall submit the Progressive Mine Closure Plan to the Indian Bureau of Mines and the State Directorate in the case of major minerals other than coal and atomic minerals, to the Coal Controller in case of coal minerals, and to the Atomic Minerals Directorate in case of atomic minerals, and to the State Directorate in the case of minor minerals and a copy thereof shall be sent to the Panchayats of the area: The proviso to the said sub-clause provides that in respect of a mining lease for a minor mineral for which a mining plan has been dispensed with under sub-clause (1) of

clause 26, the State Government in consultation with the Indian Bureau of Mines may, having regard to the nature of the mineral, exempt any such lease from preparing a Mine Closure Plan, subject to suitable provision in the mining framework in respect of that mineral in such manner as may be prescribed by the Central Government, and the mining framework shall be deemed to be the Progressive Mine Closure Plan and the Final Mine Closure Plan for the purposes of this Act.

Sub-clause (5) of this clause provides that the Indian Bureau of Mines or the Coal Controller or the Atomic Mineral Directorate, or the State Directorate as the case may be shall, after consulting the concerned Panchayats convey its approval or disapproval to the Progressive Mine Closure Plan within a period of ninety days from its receipt. The proviso to the said sub-clause provides that in case the approval or disapproval is not communicated within the said period, the Progressive Mine Closure Plan shall be deemed to have been approved on a provisional basis till such approval or disapproval is conveyed.

Sub-clause (6) of this clause provides that no mining operation shall be carried out in a mine in respect of which a Progressive Mine Closure Plan has not been approved, or in a manner contrary to the approved Progressive Mine Closure Plan. The proviso to the said sub-clause provides that the authority responsible for approving the Progressive Mine Closure Plan may at any time inspect the mining operations to satisfy itself in this regard, and may issue any direction necessary to ensure compliance to the provisions of the Plan.

Sub-clause (7) of this clause provides that a Final Mine Closure Plan shall be prepared for lease area in such manner as may be prescribed by the Central Government, and approved by the authority competent to approve the Progressive Mine Closure Plan in respect of the mine.

Sub-clause (8) of this clause provides that without prejudice to the generality of this clause, the Final Mine Closure Plan shall be based on the land use planned for the lease area after its closure, and shall include measures to reduce hazards, improve productivity and ensure that it supports the needs of the host population. The proviso to the said sub-clause provides that the land use planned for the mining lease area after the closure of mine shall be decided in consultation with the Panchayats having jurisdiction, in such manner as may be prescribed by the Central Government.

Sub-clause (9) of this clause provides that the Final Mine Closure Plan shall be revised for every five years having regard to the progress of mining operations and be submitted along with every Progressive Mine Closure Plan.

Sub-clause (10) of this clause provides that the Final Mine Closure Plan for the last five year period of the lease shall be approved with such modification as may be specified by the authority approving the Progressive Mine Closure Plan after consultation with the Panchayat concerned, within a period of one year. The proviso to the said sub-clause provides that in the case where the lease is extended under the provisions of sub-clause (1) of clause 8 of the Act, the lessee shall submit a Progressive Mine Closure Plan for the next five years in accordance with the provisions of this Act along with a Final Mine Closure Plan in accordance with the provisions of this clause and the last five years shall be reckoned with reference to the extended period.

Sub-clause (11) of this clause provides that the manner of preparation and implementation of the Mine Closure Plan for coal minerals and atomic minerals shall be such as may be prescribed by the Central Government.

Sub-clause (12) of this clause provides that every progressive and Final Mine Closure Plan shall be prepared by an accredited person or association of persons or a company in terms of a Sustainable Development Framework notified by the Central Government.

*Clause 33.*—This clause relates to the closure of mines.

Sub-clause (1) of this clause provides that the lessee shall not determine the lease or part thereof unless a Final Mine Closure Plan, approved by the Indian Bureau of Mines in

respect of major minerals other than coal minerals and atomic minerals, or any authority as may be designated by the Central Government in respect of coal minerals or atomic minerals, or the State Directorate in respect of minor minerals, as the case may be is duly implemented by the lessee.

Sub-clause (2) of this clause provides that for the purposes of sub-clause (1), the lessee shall be required to obtain a certificate from the Indian Bureau of Mines, the Atomic Minerals Directorate or the authority as may be designated by the Central Government in respect of coal minerals or the State Directorate in respect of minor minerals, as the case may be, to the effect that protective, reclamation, restoration and rehabilitation work in accordance with the approved Mine Closure Plan or with such modifications as approved by the competent authority have been carried out by the lessee.

Sub-clause (3) of this clause provides that in every case where a lessee has made default in implementing a progressive Mine Closure Plan, the State Government may by an order suspend the mining operation till the default is remedied and may demand additional security so as to ensure deposit of security to the extent of the maximum specified under sub-clause (1) of clause 24 for the remaining period of the lease, and for any or all other leases of the lessee for reasons to be specified in a show cause notice, and in case the lessee fails to show adequate cause, or fails to furnish the additional security, as the case may be, within a reasonable period not exceeding thirty days, the State Government may determine the lease in respect of which such security was not furnished.

Sub-clause (4) of this clause provides that if the lessee makes default in implementing the Final Mine Closure Plan or abandons a mine, without prejudice to any action under clause 53, the State Government may after serving a notice to the lessee, cause the plan to be implemented by such other authority as it may direct, at the cost of the lessee, that the lease may be determined in such manner as may be prescribed by the Central Government and the lessee shall be declared to be ineligible for the purpose of any mineral concessions under this Act.

*Clause 34.*—This clause relates to the applications for mineral concession in case minerals vest with private persons.

This clause provides that applications for mineral concessions in respect of any mineral which vest exclusively in a person other than the Government shall be made to such person and all mineral concessions be granted subject to the provisions of this Act and the rules made thereunder.

*Clause 35.*— This clause relates to the mineral concessions to be in the form of a registered deed:

This clause provides that a mineral concessions granted in accordance with the provisions of clause 34 shall be in the form of a registered deed executed by the parties on such terms and conditions as may be agreed, not inconsistent with the provisions of this Act or the rules made thereunder, and an authenticated copy of the deed shall be deposited by the person granted the mineral concession with the State Government and the Indian Bureau of Mines before commencing operations. The proviso to the said clause provides that notwithstanding anything contained in such deed to the contrary, it shall be lawful for the State Government to issue any direction to the leaseholder or to the person in whom the minerals vest, in accordance with the provisions of this Act.

*Clause 36.*— This clause relates to the cases where minerals vest partly with Government.

This clause provides that in respect of lands where minerals vest partly in the Government and partly with a private person, the provisions of this Act shall apply in the same manner as they apply in respect of land where minerals vest exclusively with the Government. The proviso to the said clause provides that the dead rent and royalty payable in respect of minerals which vest partly in Government and partly in private person shall be shared by the Government and by that person in proportion to the share they have in the minerals.

*Clause 37.*— This clause relates to the reservation of areas for conservation of mineral resources.

Sub-clause (1) of this clause provides that the State Government with the prior approval of the Central Government, or the Central Government after consultation with the State Government, may reserve for purposes of mineral conservation any area not already held under a high technology reconnaissance-cum-exploration licence, a prospecting licence or mining lease, and shall notify the reservation specifying the reasons and the period of reservation shall be for a period of not less than ten years. The proviso to the said sub-clause provides that the period may be extended from time to time in the public interest, for such period as may be notified by the Central Government.

Sub-clause (2) of this clause provides that no application for mineral concession shall be entertained in respect of an area reserved under sub-clause (1), and any such application is deemed to have never been made.

Sub-clause (3) of this clause provides that an area reserved for purposes of mineral conservation shall not be used for such purposes during the period of the reservation that is contrary to the object of such reservation.

*Clause 38.*— This clause relates to the saving of already reserved areas.

This clause provides that subject to the provisions of clause 37, all areas reserved under the Mines and Minerals (Development and Regulation) Act, 1957, as it stood before its repeal, and the rules made there under shall continue to be reserved under this Act for a period of ten years from the date of commencement of this Act or up to the date specified in such reservation order, whichever is earlier.

*Clause 39.*— This clause relates to the expiry and revocation of reservation.

This clause provides that on the expiry of the period of reservation under clause 37 or clause 38, or such earlier date as may be notified by the Central Government or the State Government, as the case may be, an area reserved under clause 37 or clause 38, as the case may be, shall be deemed to be available for grant of the mineral concessions after a lapse of thirty days or from such earlier date as may be notified for the purpose.

*Clause 40.*— This clause relates to the conservation of mineral.

Sub-clause (1) of this clause provides that where the Central Government is of the opinion that any mineral or a particular grade of mineral needs to be conserved in view of its strategic value, it may, by notification, ban the grant of mineral concession in respect of that mineral or a particular grade of mineral or impose such restrictions on grant of mineral concessions for operations of such concession in the manner as may be specified in the said notification. The proviso to the said sub-clause provides that such a ban or restriction shall not apply in respect of applications for grant of mining leases under sub-clause (3) of clause 25.

Sub-clause (2) of this clause provides that the notification referred to in sub-clause (1) shall be for a period of not less than ten years.

Sub-clause (3) of this clause provides that the Central Government may renew the notification as referred to in sub-clause (1) for a further period not less than ten years.

*Clause 41.*— This clause relates to the Royalty payable in respect of minerals.

Sub-clause (1) of this clause provides that the holder of a mining lease, whether granted before or after the commencement of this Act shall, notwithstanding anything in the instrument of lease or in any other law for the time being in force, pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee or contractor from the leased area.

Sub-clause (2) of this clause provides that the rate of royalty in respect of major minerals shall be such as specified in the Second Schedule to this Act. The proviso to the

said sub-clause provides that the concessional rates of royalty may be specified for such cases where the lessee beneficiates the mineral at the ore stage.

Sub-clause (3) of this clause provides that the Central Government may, after taking into consideration the report and recommendations of the National Mining Regulatory Authority, by notification, amend the Second Schedule to enhance or reduce the rate specified therein with effect from such date as may be specified in the notification. The proviso to the said sub-clause provides that the Central Government shall not enhance the rate of royalty in respect of any major mineral more than once during any period of three years.

Sub-clause (4) of this clause provides that the State Government may, by notification from time to time, declare the rate at which royalty shall be payable in respect of minor minerals. The proviso to the said sub-clause provides that the State Government shall not enhance the rate of royalty in respect of a minor mineral more than once during any period of three years.

Sub-clause (5) of this clause provides that notwithstanding anything contained in this Act, the provisions of sub-clause (1) shall not apply to or in relation to mining leases granted before the 25th day of October, 1949, in respect of coal, but the Central Government, if it is satisfied that it is expedient so to do, may, by notification, direct that all or any of the provisions of this Act or the rules made thereunder apply to or in relation to such leases subject to such exceptions and modifications, if any, as may be specified in that notification.

*Clause 42.*— This clause relates to the dead rent payable by the lessee.

Sub-clause (1) of this clause provides that the holder of a mining lease, whether granted before or after the commencement of this Act, shall, notwithstanding anything contained in the instrument of lease or in any other law for the time being in force, pay every year, dead rent at such rate as may be specified, for all the areas included in the instrument of lease.

Sub-clause (2) of this clause provides that where the holder of such mining lease becomes liable under clause 41 to pay royalty for any mineral removed or consumed by him or by his agent, manager, employee or contractor from the leased area, he shall be liable to pay either such royalty, or the dead rent in respect of that area, whichever is higher.

Sub-clause (3) of this clause provides that the dead rent in respect of mining leases for major minerals shall be as specified in the Third Schedule and the Central Government may, after taking into consideration the recommendations of the National Mining Regulatory Authority, by notification, amend the Third Schedule so as to enhance or reduce the rate at which the dead rent shall be payable in respect of any area covered by a mining lease and such enhancement or reduction take effect from such date as may be specified in the notification. The proviso to the said sub-clause provides that the Central Government shall not enhance the rate of the dead rent in respect of any such area more than once during any period of three years.

Sub-clause (4) of this clause provides that the State Government may by notification from time to time, declare the rate at which dead rent shall be payable in respect of minor minerals. The proviso to the said sub-clause provides that the State Government shall not enhance the rate of the dead rent in respect of any such area more than once during any period of three years. The proviso to the said sub-clause further provides that in respect of such portion of a lease as is for both major and minor minerals, dead rent if payable, shall be the higher of the two dead rents.

Sub-clause (5) of this clause provides that in order to encourage mining of small deposits in cluster, dead rent for the area shall be determined having regard to the actual area required for mining purposes.

*Clause 43.*— This clause relates to the payment of compensation to owner of surface, usufruct and traditional rights, damage, etc.

Sub-clause (1) of this clause provides that in respect of land in which minerals vest in the Government, the holder of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence or prospecting licence shall be liable to pay, to every person holding occupation or usufruct or traditional rights of the surface of the land over which the licence has been granted, such reasonable annual compensation as may be mutually agreed between the holder of such licence and such persons or in the absence of such agreement, which may be determined by an officer appointed, by notification, by the State Government in this behalf in such manner as may be prescribed by the State Government. The proviso to the said sub-clause provides that such amount shall be determined before commencement of operations and paid in advance each year, in such manner as may be prescribed by the State Government.

Sub-clause (2) of this clause provides that the holder of a mining lease shall pay annually to the District Mineral Foundation, as referred to in clause 56 — (a) in case of major minerals (except coal and lignite) an amount equivalent to the royalty paid during the financial year; (b) in case of coal and lignite, an amount equal to twenty-six per cent. of the profit to be called as profit sharing percentage (after deduction of tax paid) of the immediately preceding financial year from mining related operations in respect of the lease; and (c) in case of minor minerals, such amount as may be prescribed by the State Government with the concurrence of the National Mining Regulatory Authority referred to in clause 58, within such time and in such manner as may be prescribed by the State Government for the benefit of persons or families affected by mining related operations.

The proviso to the said sub-clause provides that in respect of coal minerals the Central Government may, after taking into consideration the report and recommendations of the National Mining Regulatory Authority, by notification, revise the profit sharing percentage, or specify such other method as may be prescribed for calculation of amount to be paid to the District Mineral Foundation. The proviso to the said sub-clause further provides that in case where the holder of a mining lease for major minerals has commenced mining related operations but has not commenced production, the holder of a mining lease shall pay into the District Mineral Foundation, an amount equal to the royalty payable on the production estimated in the first twelve months of the year as per the approved mining plan. It also provides that in case the holder of a mining lease for major minerals (a) was not in production for a part of a particular year, he shall be liable to pay the amount in the second proviso on *pro-rata* basis for the period during which he had not commenced any such operations; (b) discontinues production for a part of a particular year, he shall be liable to pay the amount equal to the royalty on actual production of the corresponding period of the previous financial year.

Sub-clause (3) of this clause provides that notwithstanding anything in sub-clause (2), and the Companies Act, 1956, or any other law for the time being in force, where the holder of mining lease is a company, it shall also allot at least one share at par for consideration other than cash to each person of the family affected by mining related operations of the company and such shares shall be non-transferable.

Sub-clause (4) of this clause provides that the articles of association of the company referred to in sub-clause (3) shall contain provisions enabling the company to allot shares in accordance with the provisions of sub-clause (3).

Sub-clause (5) of this clause provides that notwithstanding anything in sub-clause (2) and sub-clause (3), the holder of a mining lease shall, in respect of any person or family holding occupation or usufruct or traditional rights of the surface of the land over which the lease has been granted, be liable to provide employment or other assistance in accordance with the rehabilitation and resettlement policy of the State Government concerned.

Sub-clause (6) of this clause provides that the amount payable under this clause shall be in addition to any other amount or compensation payable to the person or family holding occupation or usufruct or traditional rights of the surface of the land under any other law for the time being in force.

Sub-clause (7) of this clause provides that after the termination of a non-exclusive reconnaissance licence, high technology reconnaissance-cum-exploration licence, prospecting licence or a mining lease, the State Government shall after giving the person or family holding occupation or usufruct or traditional rights of the surface land an opportunity of being heard, assess the damage, if any, done to the land by the reconnaissance or prospecting or mining related operations and determine the amount of compensation payable by the licensee or the lessee, as the case may be, to the person or family holding occupation rights of the surface land in such manner as may be prescribed by the State Government. The proviso to the said sub-clause provides that in case the licensee or lessee and the person or family holding occupation or usufruct or traditional rights mutually agree on the compensation, and communicate the same to an officer appointed by the State Government in this behalf, the State Government may, accordingly, determine the compensation.

Sub-clause (8) of this clause provides that in case,— (a) the licensee fails to make payment to the persons holding occupation or usufruct or traditional rights in terms of sub-clause (1), the State Government may forfeit the security deposit and make payment therefrom, and may recover any balance amount as provided in clause 118 of this Act, and may also declare the licensee or lessee ineligible for the purposes of any mineral concessions under this Act; (b) the lessee fails to make payment to the District Mineral Foundation in terms of sub-clause (2), the State Government may initiate necessary proceedings to recover the arrears and may also take action against the lessee for non-compliance of conditions of lease in accordance with the provisions of sub-clause (4) of clause 24; (c) the lessee or the licensee, as the case may be, fails to pay the compensation within three months of its determination under clause 30, the State Government may on an application made to it by the aggrieved person, either forfeit the security deposit and make payment therefrom, or may recover the amount as provided in clause 118 of this Act, and may also declare the licensee or lessee ineligible for the purposes of any mineral concessions under this Act.

Sub-clause (9) of this clause provides that where there is a dispute as to whether a person or family holds occupation or usufruct or traditional rights, the Collector of the District may after consulting the Gram Sabha, or the Gram Panchayat or District Council, as the case may be, make a determination which shall be final and binding for the purposes of this Act.

Sub-clause (10) of this clause provides that (a) The State Government shall cause identification of the person or families affected by mining related operations before the commencement of such operations, in such manner as may be prescribed by the State Government. (b) The amount of monetary benefit may be determined by the State Government for each district where mining operations are being undertaken having regard to the nature and extent to which such person or family is affected by mining related operations and for improving the quality of life of the affected person or family, but shall be equal to an amount not less than the amount a family may be entitled under the provisions of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005. The proviso to the said sub-clause provides that till the amount of monetary benefit shall be equal to an amount that such as a family may be entitled under the provisions of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005. (c) The State Government shall ensure that monetary benefits are distributed to the persons or families holding occupational or usufruct or traditional rights in areas affected by mining related operations through a mechanism prescribed by the State Government. The proviso to the said item provides that in case of a family which is not headed by a woman, the State Government shall ensure that half the amount of monetary benefits distributed to families in areas affected by mining operations shall accrue to the eldest woman member of the family.

Sub-clause (11) of this clause provides that in case of mining leases already granted on the date of commencement of this Act, the cut-off date for identification of persons or families affected by mining related operations shall be taken as first January nineteen hundred and ninety-seven.



The *Explanation* to the said sub-clause provides that (a) a "family" shall comprise of mother, father and their children, including any person wholly dependent on the head of the family, including any lineal ascendant or descendant of the head of the family or the spouse; and (b) a "family" may also be single member family.

*Clause 44.*—This clause relates to the levy and collection of cess by the Central Government.

Sub-clause (1) of this clause provides that the Central Government may, by notification, specify, that there shall be levied and collected a cess on major minerals for the purposes of this Act,— (a) as a duty of customs, where the ore is exported; (b) as a duty of excise, where the ore is sold or otherwise disposed to an end-user or to any other person who in turn sells it to an end-user, or is used by the owner of the mine in any end-use by himself, at such rate not exceeding ten per cent. as may be specified in the notification by the Central Government. The proviso to the said sub-clause provides that the rate shall not be increased more than once during any period of five years.

Sub-clause (2) of this clause provides that every cess leviable under sub-clause (1) on major minerals shall be payable by the person by whom such major minerals are produced, and in the case of export, the cess shall be payable by the exporter.

Sub-clause (3) of this clause provides that the cess leviable under sub-clause (1) on the major mineral shall be in addition to any cess or duty leviable on those items under any other law for the time being in force.

Sub-clause (4) of this clause provides that the provisions of the Central Excise Act, 1944 and the rules made thereunder and the provisions of the Customs Act, 1962 and the rules made thereunder, as the case may be, including those relating to refunds and exemptions from duties shall, as far as may be, apply in relation to the levy and collection of cess leviable under this clause and for this purpose, the provisions of the Central Excise Act, 1944 and of the Customs Act, 1962, as the case may be, shall have effect as if the aforesaid Acts provided for the levy of cess on major minerals.

Sub-clause (5) of this clause provides that every person or company or firm or association of persons using or trading in or exporting or stocking major minerals shall register himself or itself with the Indian Bureau of Mines in such manner as may be prescribed by the Central Government. The proviso to the said sub-clause provides that in case of coal minerals, administration of registration shall be done by the Central Government.

*Clause 45.*— This clause relates to the Levy and collection of cess by the State Government.

Sub-clause (1) of this clause provides that the State Government may, by notification specify, that there shall be levied and collected a cess on major minerals or minor minerals extracted at a rate not exceeding ten per cent. of the royalty in such manner as may be prescribed by the State Government. The proviso to the said sub-clause provides that the rate shall not be increased more than once during any period of five years.

Sub-clause (2) of this clause provides that the cess shall be paid by the person holding the mining lease for major minerals or minor minerals, as the case may be. The proviso to the said sub-clause provides that where the minerals vest in a person other than the Government, and the holder of the mining lease fails to pay the cess, the person in whom the minerals vest shall, on demand, pay the amount of the cess.

*Clause 46.*—This clause relates to the power of the Central Government to issue directions in the interest of scientific mineral exploration and mining and sustainable development.

Sub-clause (1) of this clause provides that the Central Government shall take all such steps as may be necessary for the conservation of strategic mineral resources in the national interest and for the scientific development and exploitation of all mineral resources.

Sub-clause (2) of this clause provides that the Central Government in order to facilitate the scientific development and exploration of mineral resources and to ensure the protection of the environment and prevention and control of pollution from prospecting and mining



related operations, shall cause to be developed a National Sustainable Development Framework in consultation with the State Governments.

Sub-clause (3) of this clause provides that the State Government may with the previous approval of the Central Government frame a State Sustainable Development Framework not inconsistent with the National Sustainable Development Framework.

Sub-clause (4) of this clause provides that the National Sustainable Development Framework shall contain guidelines enabling formulation of project-level practices for sustainable mining, and include the following, namely:— (i) specification of factors and parameters influencing sustainable and scientific mining; (ii) broad criteria beyond which mining may not be deemed sufficiently sustainable or scientifically manageable; (iii) systemic measures needed to be taken or built-in to increase sustainability of mining operations considering its entire life cycle, *inter alia*— (a) ensuring minimal adverse impact on quality of life of the local communities; (b) protecting interests of affected persons including host population; (c) creating new opportunities for socio-economic development including for sustainable livelihood; (d) mineral conservation both in terms of mining technologies or practices and mineral beneficiation; (e) reduction in waste generation and related waste management practices and promotion of recycling of materials; (f) minimising and mitigating adverse environmental impacts particularly in respect of ground water air, ambient noise and land; (g) ensuring minimal ecological disturbance, in terms of bio-diversity, flora, fauna and habitat; (h) promoting restoration and reclamation activities so as to make optimal use of mined out land for the benefit of the local communities; (i) measurable indicators of sustainable development; (j) consultative mechanisms with stakeholder groups right from pre-mining stages through the life cycle and up to post-closure stages to ensure that the stakeholder groups involvement and participation in identifying and addressing the sustainability issues; and (k) system of public disclosure of mining related activities and environmental parameters including indicators and mechanisms to facilitate formal and informal sustainability audits.

Sub-clause (5) of this clause provides that the Central Government may, from time to time notify guidelines for scientific mining and mineral conservation with in a Sustainable Development Framework and the State Directorate shall be responsible for implementation of the Sustainable Development Framework in the State. The proviso to this sub-clause provides that the State Government may, with the previous approval of the Central Government confer all or any of the functions of the State Directorate to any other specialised agency for the purpose of better implementing of the Sustainable Development Framework.

Sub-clause (6) of this clause provides that the Central Government may issue general directions as may be required, consistent with the provisions of this Act to the State Governments or the National Mining Regulatory Authority referred to in clause 58 or to any authority under the Central Government or the State Government, as the case may be, for the conservation of strategic mineral resources or any policy matter in the national interest and for the scientific and sustainable development and exploration of mineral resources and recycling of such resources to the extent practicable, and detection, prevention and prosecution of cases of illegal mining, and to frame rules for the purpose and all such directions shall be complied with to the extent possible.

Sub-clause (6) of this clause provides that without prejudice to the provisions of this clause, the Central Government for the purpose of scientific management and exploration of mineral resources, prescribe a framework for disclosure of information related to mineral resources and their exploration and exploitation, and recycling including the development of websites and portals and databases; and such framework shall specify the nature and extent of the information required to be disclosed and the person or authority responsible for such disclosure and any such person or authority shall comply except where the information is of a nature that is exempted under clause 8 of the Right to Information Act, 2005 in relation to a public authority.

*Clause 47.*—This clause relates to the power of the State Government to issue directions generally.

Sub-clause (1) of this clause provides that the State Government may, in the interest of systematic development of mineral deposits, conservation of minerals, scientific mining, sustainable development and protection of the environment, issue directions to the owner, agent, mining engineer, geologist or manager of a mine.

Sub-clause (2) of this clause provides that every direction issued under sub-clause (1) shall be complied within such period as may be specified, not being a period of less than one week. The proviso to the said sub-clause provides that where there is difficulty in giving effect to any direction, the owner, agent, mining engineer, geologist or manager of the mine, as the case may be, may apply for modification or rescinding of such direction and the State Government, may either modify or rescind the direction or confirm it. The proviso to the said sub-clause further provides that in case the State Government does not pass any order modifying or rescinding such direction within a period of thirty days from the date of application, the direction shall be deemed to have been confirmed.

Sub-clause (3) of this clause provides that any direction issued under sub-clauses (1) and (2) shall be issued in consultation with the Indian Bureau of Mines in such classes of cases as may be prescribed by the Central Government.

Sub-clause (4) of this clause provides that any person aggrieved by a direction or order under this clause may apply to the National Mining Tribunal in case of major minerals under clause 85 or the State Mining Tribunal in case of minor minerals under clause 99, as the case may be.

*Clause 48.*—This clause relates to the power to authorise Geological Survey of India and Indian Bureau of Mines, Atomic Minerals Directorate, etc., to investigate and report.

Sub-clause (1) of this clause provides that where the Central Government is of the opinion that for the purpose of conservation of strategic mineral resources or for the scientific management, exploration and exploitation of mineral resources it is expedient to conduct a technical or scientific investigation with regard to any mineral or any land including lands in relation to which mineral concessions may have been granted, the Central Government may authorise the Geological Survey of India or the Indian Bureau of Mines or the Atomic Minerals Directorate or such other authority as it may specify in this behalf, to carry out such technical or scientific investigation as may be necessary, and to submit a report within such period as may be specified. The proviso to the said sub-clause provides that no such authorisation shall be made in the case of any land in which mineral concession has been granted, except after consultation with the State Government where minerals vest in the State Government and with the person in whom the mineral vests in other cases.

Sub-clause (2) of this clause provides that on issue of an authorisation under sub-clause (1), it shall be lawful for the Geological Survey of India, the Indian Bureau of Mines, the Atomic Mineral Directorate or the specified authority or agency, and its employees,—(a) to enter upon such land; (b) to dig or bore into the sub-soil, conduct studies and take samples; (c) to do all other acts necessary to determine the nature and extent of any mineral available in or under such land; (d) to set out boundaries of the land in which any mineral is expected to be found, and to mark such boundaries and line by placing marks; and (e) where otherwise the survey cannot be completed on the boundaries and line marked, to cut down and clear away any part to any standing crop, fence or jungle with the approval of the authority concerned. The proviso to the said sub-clause provides that no such authority or agency, as the case may be, shall enter into any building or upon any enclosed court or garden attached to a dwelling-house without previously giving such occupier at least seven days' notice in writing of its intention to do so.

Sub-clause (3) of this clause provides that whenever any action of the nature specified in sub-clause (2) is to be taken, the Central Government shall, before or at the time when such action is taken, pay or tender payment for the damage which is likely to be caused, and in case of dispute as to the sufficiency of the amount so paid or tendered or as to the person to whom it shall be paid or tendered, the Central Government refer the dispute to the Collector of the District in which the land is situated for determination.

Sub-clause (4) of this clause provides that the fact that there exists any such dispute as is referred to in sub-clause (3) shall not be a bar to the taking of any action under sub-clause (2).

Sub-clause (5) of this clause provides that after the completion of the investigation, the Geological Survey of India, the Indian Bureau of Mines, the Atomic Minerals Directorate or the specified authority or agency by which the investigation was made shall submit a report to the Central Government indicating therein the nature and extent of any mineral which lies deposited in or under the land and such other information as may be necessary.

Sub-clause (6) of this clause provides that the costs of the investigation made under this clause shall be borne by the Central Government. The proviso to the said sub-clause provides that any portion of the cost may be paid out of the National Mineral Fund in accordance with the provisions of clause 50.

Sub-clause (7) of this clause provides that the Central Government may, having regard to the utility of the report submitted under sub-clause (5), and the public interest, make available the report to such persons and at such cost and in such manner as may be prescribed by the Central Government.

*Clause 49.*—This clause relates to the power of the Indian Bureau of Mines, Coal Controller, Atomic Minerals Directorate and State Directorate to issue certain directions and to seek information.

Sub-clause (1) of this clause provides that the Indian Bureau of Mines, the Coal Controller, the Atomic Minerals Directorate or the State Directorates or any officer authorised by the Central Government or the State Government, as the case may be, may enter and inspect a mine, and examine or direct the examination of any mineral deposit in any area under prospecting licence or mining lease and take samples therefrom at any time for the purposes of this Act.

Sub-clause (2) of this clause provides that if any mine or part thereof, which in the opinion of the Indian Bureau of Mines, the Coal Controller, the Atomic Minerals Directorate or the State Directorate, poses a grave and immediate threat to the conservation of mineral resources or to the environment, it may, by an order in writing to the owner, agent, mining engineer or manager, require him to take such measures as may be specified in the order and may prohibit, until the requirements as specified in the order are complied with to its satisfaction, the deployment of any person other than those required for compliance with the requirement of the order.

Sub-clause (3) of this clause provides that the Indian Bureau of Mines, the Coal Controller, the Atomic Minerals Directorate or the State Directorate, as the case may be, may by a general or specific order require the cores or specimens of rocks and minerals obtained from specified boreholes or shafts during prospecting or mining operation conducted under this Act, to be preserved for any specific period.

Sub-clause (4) of this clause provides that every holder of a prospecting licence or a mining lease shall provide all reasonable facilities to persons authorised by the Indian Bureau of Mines, the Coal Controller, the Atomic Minerals Directorate and the State Directorate for the purpose of undertaking research or training in matters relating to mining or geology.

Sub-clause (5) of this clause provides that the holder of a non-exclusive reconnaissance licence, high-technology reconnaissance-cum-exploration licence, prospecting licence or mining lease, or his agent shall furnish such information regarding his reconnaissance or prospecting or mining operations or regarding the mine or any matter connected therewith as the Indian Bureau of Mines, the Coal Controller, the Atomic Minerals Directorate or the authorised officer of the Central Government or the State Government, as the case may be, may require by an order in writing and the information is furnished within such time and such period as may be specified in the aforesaid order.

*Clause 50.*—This clause relates to the National Mineral Fund.

Sub-clause (1) of this clause provides that the Central Government shall, by notification, establish a fund to be called the National Mineral Fund for the purposes of this Act.

Sub-clause (2) of this clause provides that the proceeds of the cess levied under sub-clause (1) of clause 44 shall first be credited to the Consolidated Fund of India, and the Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Mineral Fund from time to time, after deducting the expenses of collection, for being utilised exclusively for the purposes of sub-clause (3).

Sub-clause (3) of this clause provides that the amount standing to the credit of the National Mineral Fund shall be utilised for— (a) making grants to the National Mining Regulatory Authority and the National Mining Tribunal of such sums of money as are required to pay salaries and allowances payable to the Chairperson and the members and the administrative expenses including the salaries, allowances and pension payable to or in respect of officers and other employees of the Authority and the Tribunal; (b) promoting scientific management of mining activities and mine closures, including research and development and training; (c) research and development in sustainable mining and recycling of resources; (d) developing capacity of the Indian Bureau of Mines or office of the coal controller, and any other agency as may be determined by the Central Government to enforce the provisions of the Act; (e) detecting and preventing illegal mining including commissioning of surveys and studies, and developing awareness amongst local communities and the mining sector; (f) investigations for the conservation and scientific management of mineral resources in accordance with the provisions of clause 48 of the Act; (g) promotion of information technology applications in support of the mining and minerals sector; (h) providing grants-in-aid for promoting techno-economic studies for the mineral sector; and (i) providing grants-in-aid for holding of and participation in national or international minerals and mining workshops, conferences and promotional events.

*Clause 51.*—This clause relates to the administration and management of the National Mineral Fund.

Sub-clause (1) of this clause provides that the National Mineral Fund shall be under the control of the Central Government, and the balance to the credit of the National Mineral Fund not lapse at the end of the financial year.

Sub-clause (2) of this clause provides that the Central Government shall be responsible for the administration and management of the National Mineral Fund.

Sub-clause (3) of this clause provides that the Central Government for the purpose of this Act may,— (a) formulate criteria for allocation of funds for such projects which are required to be implemented; (b) approve schemes and sanction grants and loans from the National Mineral Fund to institutions and authorities as may be decided and monitor their utilisation; and (c) implement directly or through the Geological Survey of India or the Indian Bureau of Mines or Coal Controller or any other agency as may be determined by the Central Government, projects for the purposes of sub-clause (3) of clause 50 and for this purpose it may authorise the Director-General, Geological Survey of India and the Controller General, Indian Bureau of Mines to incur such expenditure from the National Mineral Fund as may be necessary in this regard.

*Clause 52.*—This clause relates to the audit of the accounts of the National Mineral Fund.

Sub-clause (1) of this clause provides that the Central Government shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account and the balance-sheet in respect of the National Mineral Fund in such form, as may be prescribed in consultation with the Comptroller and Auditor-General of India.

Sub-clause (2) of this clause provides that the accounts of the National Mineral Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

*Clause 53.*—This clause relates to the State Mineral Fund.

Sub-clause (1) of this clause provides that the State Government may, by notification, establish a fund to be called the State Mineral Fund for the purposes of this Act.

Sub-clause (2) of this clause provides that the proceeds of the cess levied under sub-clause (1) of clause 45 shall first be credited to the Consolidated Fund of the State and the State Government may, if the Legislature of the State by appropriation made by law in this behalf so provide, credit by way of grants or loans such sums of money as the State Government may consider necessary to the State Mineral Fund from time to time, after deducting the expenses of collection, for being utilised exclusively for the purposes of sub-clause (4).

Sub-clause (3) of this clause provides that the State Mineral Fund shall be held and administered on behalf of the State Government in such manner and by such authority as may be prescribed by the State Government.

Sub-clause (4) of this clause provides that the amount standing to the credit of the State Mineral Fund shall be utilised for:—(a) developing capacity of the State Directorate to achieve the objects of this Act; (b) promotion of information technology applications in support of the mining and mineral sector; (c) setting up and operation of Special Courts under clause 105 of the this Act; (d) setting up and operation of the State Mining Regulatory Authority and the State Mining Tribunal under clause 70 and clause 89 respectively; (e) financial assistance to the District Mineral Foundations by way of loan, capital grants or other payment; (f) compensating lessees whose leases are prematurely terminated under clause 31 of this Act; (g) prevention and detection of illegal mining, including expenditures incidental to enforcement of the provisions of clause 114 of this Act and to reward whistle-blowers on illegal mining. The explanation to the said sub-clause provides that a whistle-blower is a person who provides credible information of illegal mining; (h) such other public purposes in relation to the objects of the Act including measures to prevent and detect illegal mining, as may be deemed expedient by the State Government from time to time.

Sub-clause (5) of this clause provides that without prejudice to the generality of the foregoing provisions, the State Government may sanction grants out of the State Mineral Fund to an authority for implementation of a Mine Closure Plan under sub-clause (4) of clause 33 and cause the recovery of the cost thereof from the lessee in accordance with the provisions of clause 118 and deposit the same into the State Mineral Fund.

*Clause 54.*—This clause relates to the administration and management of the State Mineral Fund.

Sub-clause (1) of this clause provides that the State Mineral Fund shall be under the control of the State Government, and the balance to the credit of the State Mineral Fund shall not lapse at the end of the financial year.

Sub-clause (2) of this clause provides that the State Government shall be responsible for the administration and management of the State Mineral Fund.

Sub-clause (3) of this clause provides that the State Government for the purposes of this Act may,—(a) formulate criteria for allocation of funds for such projects which are required to be implemented; (b) implement directly or through the State Directorate by way of grant-in-aid, projects for the purposes of sub-clause (4) of clause 53 and for this purpose, may authorise the Director of the State Directorate to incur such expenditure from the State Mineral Fund as may be necessary in this regard.

*Clause 55.*—This clause relates to the audit of the accounts of the State Mineral Fund.

Sub-clause (1) of this clause provides that the State Government shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account and the balance-sheet in respect of the State Mineral Fund in such manner, as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

Sub-clause (2) of this clause provides that the accounts of the State Mineral Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

*Clause 56.*—This clause relates to the establishment of District Mineral Foundation.

Sub-clause (1) of this clause provides that the State Government shall, by notification, establish a trust to be called the District Mineral Foundation, a non-profit body, in each district in the State where a mining lease has been granted or is in operation, in the manner as may be prescribed by the State Government.

Sub-clause (2) of this clause provides that the object of the District Mineral Foundation shall be to work for the interest and benefit of persons or families affected by mining related operations in the district.

Sub-clause (3) of this clause provides that the District Mineral Foundation shall be responsible for (a) distribution of monetary benefit to persons or families affected by mining related operations in the district, and (b) undertaking such other activities as are in furtherance of the object of the Foundation, including creation, management and maintenance of such local infrastructure for socio-economic purposes in areas affected by mining related operations and facilitating the implementation of the Sustainable Development Frame Work.

Sub-clause (4) of this clause provides that the State Government may give financial assistance to any District Mineral Foundation by way of loan, capital grants or other payments.

Sub-clause (5) of this clause provides that the State Government shall maintain a register, which shall be open to the members of the public for inspection at any reasonable time, containing the following in relation to each District Mineral Foundation,— (a) a copy of the current constitution, (b) a copy of the latest annual accounts and of any report of the auditor of the accounts of the District Mineral Foundation, and (c) a copy of the latest annual report of the District Mineral Foundation.

Sub-clause (6) of this clause provides that the amount standing to the credit of the District Mineral Foundation shall be utilised, in the order of priority, for,— (a) payment of monetary benefits payable monthly or quarterly to members of the family of the person holding occupation or usufruct or traditional rights in areas affected by mining related operations. The proviso to the said sub-clause provides that the State Government may make a scheme to systematically regulate the amount of payment of monetary benefits to different categories based on the nature and extent to which they are affected by the mining related operation; (b) such other expenditure as may be prescribed by the Central Government subservient to the objects of the Foundation; (c) payment of administrative expenses necessary for working of the District Mineral Foundation, not exceeding five per cent. of the total annual payment received by it in a financial year.

*Clause 57.*—This clause relates to the Governing Council of District Mineral Foundation.

Sub-clause (1) of this clause provides that the District Mineral Foundation shall be managed by a Governing Council consisting of (a) District Magistrate—Chairperson, (b) Chairperson of the District Panchayat or the District Council, as the case may be—Member, (c) All holders of mining lease in the district—Members, (d) Head of local offices of Departments concerned of the State Government—Members, (e) At least three representatives nominated by the District Magistrate in consultation with the Chairperson of the District Panchayat or District Council, as the case may be, from amongst the affected persons or families in the areas affected by mining operations, in the manner as may be prescribed by the

State Government—Members, (f) representative of the Indian Bureau of Mines—Member and (g) District Mining Officer—Secretary. The proviso to the said sub-clause provides that in the areas specified in Schedule V of the Constitution in case there is no District Panchayat, the Chairperson of each of the intermediate Panchayats, and in case there is no Panchayat at intermediate level, the Chairperson of the Village Panchayats within whose jurisdiction mining operations are undertaking shall be included as a member.

Sub-clause (2) of this clause provides that the Governing Council for the District Mineral Foundation shall be responsible for : (a) drawing-up the annual budget for utilisation of the fund available with the Foundation, (b) approving the disbursement of the amounts to the entitled persons or families affected by mining related operations; and (c) approving such other expenditure, in furtherance of the objects of the foundation, from the Fund available with the District Mineral Foundation in such manner as may be prescribed by the Central Government.

Sub-clause (3) of this clause provides that the District Mineral Foundation shall, at the end of each year, prepare an Annual Report in respect of the activities undertaken under the fund available with the District Mineral Foundation, and shall forward it to the State Government, which shall forthwith cause the Report to be published on the Government website.

Sub-clause (4) of this clause provides that the District Mineral Foundation shall maintain a register giving details of,—(a) the list of lease holders in the district and the annual payments made by them to the District Mineral Foundation; (b) the disbursement of benefits to the affected persons; and (c) annual audited accounts of the District Mineral Foundation which shall be available on the website of the Foundation and for inspection by public.

Sub-clause (5) of this clause provides that for the purposes of the Right to Information Act, 2005, the District Mineral Foundation is deemed to be a public authority.

Sub-clause (6) of this clause provides the District Mineral Foundation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account and the balance-sheet in respect of the fund available with the District Mineral Foundation in such manner, as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

Sub-clause (7) of this clause provides that the accounts of the District Mineral Foundation shall be audited at such intervals and in such manner as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

Sub-clause (8) of this clause provides that the accounts of the District Mineral Foundation, as certified by the District Magistrate, together with the audit report thereon shall be forwarded annually to the State Government by the District Mineral Foundation and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

*Clause 58.*—This clause relates to the establishment of National Mining Regulatory Authority.

Sub-clause (1) of this clause provides that the Central Government shall, by notification, establish a National Authority to be known as the National Mining Regulatory Authority, to exercise the powers conferred on, and to perform the functions assigned to, it under this Act in relation to major minerals (other than coal minerals).

Sub-clause (2) of this clause provides that the National Authority shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of properties, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

Sub-clause (3) of this clause provides that the head office of the National Authority shall be at New Delhi.



Sub-clause (4) of this clause provides that the National Authority may, with the prior approval of the Central Government, establish its offices at any other place in India.

*Clause 59.*— This clause relates to the composition of National Authority.

Sub-clause (1) of this clause provides that the National Authority shall consist of a Chairperson and not more than nine whole-time Members to be appointed by the Central Government.

Sub-clause (2) of this clause provides that the Chairperson of the National Authority may, if considered necessary, invite any one or more persons having specialised knowledge and experience in a particular case to assist the National Authority.

*Clause 60.*— This clause relates to the qualification for appointment as Chairperson or Member of National Authority.

Sub-clause (1) of this clause provides that a person shall not be qualified for appointment as the Chairperson of the National Authority, unless he,— (a) is of not less than fifty-eight years of age; (b) (i) has a post-graduate degree in mining, engineering, technology, science, commerce, humanities or law from a university recognised by the University Grants Commission or a university or institute established by law for the time being in force and special knowledge and experience of not less than four years in matters relating to policy, regulation and operations in extractive industry; or (ii) has held the post of Secretary or Additional Secretary to the Government of India or any equivalent post in the Central Government or the State Government, as the case may be, having experience of not less than one year in policy or law relating to mines and mineral concessions.

Sub-clause (2) of this clause provides that a person shall not be qualified for appointment as a Member, unless he,— (a) is of not less than fifty-eight years of age; (b) (i) has a post-graduate degree in mining, engineering, technology, science, commerce, humanities or law from a university recognised by the University Grants Commission or a university or institute established by law for the time being in force and special knowledge and experience of not less than three years in matters relating to policy, regulation and operations in extractive industry or has experience of not less than three years in the field of mining sector at the national level; or (ii) has held the post of Joint Secretary to the Government of India or any equivalent post in the Central Government or the State Government, as the case may be, having experience of not less than one year in policy or law relating to mines and mineral concessions.

Sub-clause (3) of this clause provides that the Chairperson and the Members of the National Authority shall be appointed on the recommendations of the Selection Committee constituted under sub-clause (1) of clause 61.

Sub-clause (4) of this clause provides that the Chairperson or the Members of the National Authority shall not hold any other office during the period of holding his office as such.

Sub-clause (5) of this clause provides that the Central Government shall, within a period of one month from the date of occurrence of any vacancy in the office of the Chairperson or Member, by reason of death, resignation or removal of the Chairperson or a member and six months before the superannuation or completion of the term of office of the Chairperson or any member, make a reference to the Selection Committee constituted under clause 61 for filling-up of such vacancy.

*Clause 61.*— This clause relates to the Selection Committee for selection of Chairperson and members of the National Authority.

Sub-clause (1) of this clause provides that the Central Government shall, for the purpose of selection of the Chairperson and members of the National Authority constitute a Selection Committee, consisting of the following, namely:— (a) Cabinet Secretary – Chairperson; (b) Secretary in the Ministry of Mines – Member; (c) Secretary in the Ministry of Law and Justice – Member



Sub-clause (2) of this clause provides that the Secretary in the Ministry of Mines, Government of India, shall be the Convenor of the meeting of the Selection Committee.

Sub-clause (3) of this clause provides that the Selection Committee shall finalise the selection of the Chairperson and members of the National Authority within one month from the date on which the reference is made to it under sub-clause (5) of clause 60.

Sub-clause (4) of this clause provides that the Selection Committee shall recommend a panel of two names in order of preference for every vacancy referred to it and the Central Government shall make appointment from such panel.

Sub-clause (5) of this clause provides that before recommending any person for appointment as a Chairperson or a member of the National Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest, which is likely to affect prejudicially his functions as Chairperson or member, as the case may be.

Sub-clause (6) of this clause provides that no appointment of the Chairperson or a member of the National Authority shall be invalid merely by reason of any vacancy in the Selection Committee.

Sub-clause (7) of this clause provides that subject to the provisions of sub-clauses (1) to (6), the Selection Committee may regulate its own procedure.

*Clause 62.*— This clause relates to the term of office, salary and allowances of Chairperson and member of the National Authority.

Sub-clause (1) of this clause provides that the Chairperson and member of the National Authority shall hold office for a term of five years from the date on which they enter upon their office or up to the age of sixty-five years, whichever is earlier.

Sub-clause (2) of this clause provides that notwithstanding anything contained in sub-clause (1), the Chairperson and every Member shall hold office at the pleasure of the Central Government.

Sub-clause (3) of this clause provides that the salary and other allowances payable to, and the other terms and conditions of service of, the Chairperson and other members of, the National Authority shall be such as may be prescribed by the Central Government. The proviso to the said sub-clause provides that the salary and other allowances or other terms and conditions of service of the Chairperson and other members of the National Authority shall not be varied to their disadvantage after appointment.

*Clause 63.*— This clause relates to the resignation of the Chairperson or a member of the National Authority.

This clause provides that the Chairperson or a member of the National Authority may, by notice in writing under his hand addressed to the Central Government, resign his office. The proviso to the said sub-clause provides that a Chairperson or a member of the National Authority shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

*Clause 64.*— This clause relates to the removal or suspension of Chairperson or members of the National Authority.

Sub-clause (1) of this clause provides that the Central Government may, by order, remove from office, the Chairperson or any member of the National Authority, if the Chairperson or such other Member, as the case may be,— (a) has been adjudged an insolvent; or (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or (c) has become physically or mentally incapable of acting as a Member; or (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

Sub-clause (2) of this clause provides that no Chairperson or any other member of the National Authority shall be removed from the office except by an order of the Central Government on the ground of his proved misbehaviour or incapacity after the Central Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Chairperson or member, as the case may be, ought on any such ground to be removed.

Sub-clause (3) of this clause provides that the Central Government may suspend the Chairperson or a member of the National Authority, as the case may be, in respect of whom an inquiry under sub-clause (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

*Clause 65.*— This clause relates to the Member of National Authority to act as its Chairperson in certain cases.

Sub-clause (1) of this clause provides that in the event of the occurrence of any vacancy in the office of the Chairperson of the National Authority by reason of his death or resignation, the senior-most member of the National Authority shall act as the Chairperson until the date on which a new Chairperson, appointed in accordance with the provisions of this Act, to fill such vacancy, enters upon his office.

Sub-clause (2) of this clause provides that when the Chairperson of the National Authority is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

*Clause 66.*— This clause relates to the vacancies, etc., not to invalidate proceedings of the National Authority.

This clause provides that no act or proceeding of the National Authority shall be invalid merely by reason of— (a) any vacancy in, or any defect in the constitution of, the National Authority; or (b) any defect in the appointment of a person as the Chairperson or a Member of the National Authority; or (c) any irregularity in the procedure of the National Authority not affecting the merits of the case.

*Clause 67.*— This clause relates to the officers and other employees of the National Authority.

Sub-clause (1) of this clause provides that the National Authority shall have under it such numbers and categories of officers and other employees, as the Central Government may determine in consultation with the Chairperson of the National Authority from time to time, to assist the National Authority in the discharge of its functions.

Sub-clause (2) of this clause provides that the National Authority may appoint its officers and other employees in such manner as may be prescribed by the Central Government.

Sub-clause (3) of this clause provides that the officers and other employees of the National Authority appointed under sub-clause (2) shall discharge their functions under the general superintendence of the Chairperson.

Sub-clause (4) of this clause provides that the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the National Authority shall be such as may be prescribed by the Central Government.

*Clause 68.*— This clause relates to the Powers and functions of the National Authority.

Sub-clause (1) of this clause provides that subject to the provisions of this Act, the National Authority shall discharge and exercise the following functions and powers in respect of major minerals, namely:— (a) lay down the standards of quality of technical regulation to be followed by the State Governments and the Indian Bureau of Mines; (b) lay down the standards of quality of reports and information provided in the public domain by the State Governments, Indian Bureau of Mines and Geological Survey of India to the investors in the

mining sector; (c) mediate on the issue of jurisdiction in matters of inspection of mining areas amongst the State Governments and the Indian Bureau of Mines; (d) advise on mineral-wise conservation strategies keeping in view of the national interest; (e) advise on matters relating to framework for sustainable development of the mining sector, including implementation and monitoring thereof. The proviso to the said sub-clause provides that notwithstanding anything contained in this Act, the National Authority may, on the request of the Central Government or any State Government, render advice on sustainable development framework for minor minerals; (f) advise the Central Government and any State Government, on a reference from them, on issues pertaining to measures to increase transparency in the grant of mineral concessions and efficiency in models for competitive bidding of minerals; (g) review of the existing rates of royalty on minerals (other than coal, lignite and sand for stowing) specified in the Second Schedule for major minerals in terms of sub-clause (2) of clause 41 and the profit sharing percentage payable under sub-clause (2) of clause 43 and recommend revision of rates of royalty and profit sharing percentage to be paid by the mining lease holder from time to time; (h) review of the existing rates of dead rent on minerals (other than coal, lignite and sand for stowing) specified in the Third Schedule for major minerals in terms of sub-clause (3) of clause 42 and recommend revision of rates of royalty from time to time; (i) recommend suitable mechanisms to moderate royalty to support investment in remote areas or for induction of special technology or for promoting mineral beneficiation or to produce downstream products of strategic value or to create infrastructure. The proviso to the said sub-clause provides that the recommendations of the National Authority under this sub-clause shall be made in consultation with the State Governments and the mining industry and shall be in the form of a report submitted to the Central Government. The proviso to the said sub-clause further provides that the National Authority shall not recommend increase in royalty rates or profit sharing percentage for any mineral or fees or other charges more than once in three years; (j) recommend strategies and institutional mechanisms to the Central Government for attracting long-term investments in the mining sector; (k) recommend mechanisms to protect the interests of the end-use industries in the country for assured long-term supply of minerals;

Sub-clause (2) of this clause provides that the National Authority shall have the power to regulate its own procedure thereof in all matters arising out of the exercise of its powers or of the discharge of its functions.

Sub-clause (3) of this clause provides that the National Authority shall ensure transparency in exercising its powers and discharging its functions.

Sub-clause (4) of this clause provides that the National Authority or any of its officers authorised by it may call for records, material evidence, or persons accused of contravening any of the provisions or committing any of the offences under this Act.

Sub-clause (5) of this clause provides that all proceedings before the National Authority in discharge of its functions shall be deemed to be judicial proceedings within the meaning of Sections 193, 219, 228 and for the purposes of Section 196 of the Indian Penal Code and the National Authority shall be deemed to be a civil court for the purposes of Section 195 and chapter XXVI of the Code of Criminal Procedure, 1973.

Sub-clause (6) of this clause provides that notwithstanding anything contained in clause 85, the order of the National Authority shall not be subject to revision by the National Tribunal.

Sub-clause (7) of this clause provides that the recommendation or advice of the National Authority under this clause shall be in the form of a report to the Central Government and the Central Government shall take a decision thereon within a period of three months. The proviso to the said sub-clause provides that where the Government takes a decision at variance with the recommendation or advice of the National Authority, it shall record the reasons therefor and intimate the same to the National Authority.

Sub-clause (8) of this clause provides that the National Authority shall include in its annual report all the cases where its recommendation or advice has not been accepted by the Central Government along with reasons therefor.

*Clause 69.*— This clause relates to the search, seizure and investigation of the National Authority.

Sub-clause (1) of this clause provides that without prejudice to the provisions of this Act or any other law for the time being in force, the National Authority may, on the basis of written complaint alleging contravention of the provisions of this Act or alleging commission of any offence punishable under this Act or the rules made thereunder in respect of major minerals where such contraventions or commission of offences have been committed on large scale or on organised basis or takes place inter-state, investigate or cause to be investigated any such complaint or institute the prosecution against any person.

Sub-clause (2) of this clause provides that without prejudice to the generality of the provisions of sub-clause (1), the National Authority may investigate or cause to be investigated or institute the prosecution against any person where contraventions or commission of offences have been committed on large scale or on organised basis or have taken place inter-state, in respect of major minerals in the following cases, namely:— (i) exploration and mining for any mineral without licence or lease; (ii) undertaking of mining or exploration activity outside the area granted under licence or lease; (iii) transactions relating to or possession of mineral stock of unknown origin, or such mineral which cannot be satisfactorily accounted for; (iv) transportation, storage, trade or export of illegally raised mineral without lawful authority.

Sub-clause (3) of this clause provides that the National Authority may, if it finds that the contravention of any of the provisions of this Act or commission of any offence thereunder in respect of major minerals is of a small scale or isolated nature, refer any complaint referred to in sub-clause (1) or sub-clause (2) to the State Government concerned for such action as it deems fit.

Sub-clause (4) of this clause provides that the Central Government or the State Government or the National Authority may, by notification in the Official Gazette, appoint such persons as it thinks fit, possessing such qualifications as may be prescribed, or such authority fulfilling such criteria or appoint an Investigation Officer or Investigation Authority or appoint legal practitioner for initiating prosecution or defending its case before any court or Tribunal for such area as may be specified in the notification, to investigate or initiate prosecution in contravention of any of the provisions of this Act or commission of any offence thereunder in respect of major minerals [including cases falling under clauses (i) to (iv) of sub-clause (2)].

The *Explanation* to the said sub-clause provides that “legal practitioner” means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

Sub-clause (5) of this clause provides that the Investigation Officer or the Investigating Authority referred to in sub-clause (4), if so authorised by the Central Government, shall have power — (a) to enter and search, at all reasonable times and with such assistance, if any, as he considers necessary, any premises in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed; or for the purpose of satisfying himself that the provisions of this Act or the rules made thereunder are being complied with; (b) to require the production of, and to inspect, examine and make copies of, or take extracts from registers, records or any other documents kept by a holder of a mining lease or licence, as the case may be, in pursuance of the provisions of this Act or the rules made thereunder and seize the same, if he has reason to believe that all or any of them, may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder; (c) to make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or the rules made thereunder are being complied with; (d) to exercise such other powers as may be necessary for carrying out the purposes of this Act or the rules made thereunder.

Sub-clause (6) of this clause provides that the provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search or seizure under this Act as they

apply to any search or seizure made under the authority of a warrant issued under Section 94 of the said Code.

Sub-clause (7) of this clause provides that save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to the process of investigation and initiation of prosecution of the offences in respect of major minerals under the provisions of this Act, as they apply to the investigation or initiation of prosecution made under the provisions of the said Code.

Sub-clause (8) of this clause provides that the Investigating Officer or Investigating Authority, as the case may be, shall complete the process of investigation within a period of three months from the date of authorisation for conducting such investigation and submit the report of such investigation to the National Authority.

Sub-clause (9) of this clause provides that the Investigation Officer or the Investigating Authority may take the assistance of police if so becomes necessary for discharge of its functions under this Act.

Sub-clause (10) of this clause provides that the National Authority either on its own motion (on the basis of material in its possession) or on the basis of report referred to in sub-clause (8) or an Investigation Officer or Investigating Authority or any of its officer, if so authorised by the National Authority may file a complaint before a competent court for the contravention of the provisions of this Act or commission of any offence thereunder in respect of major minerals.

*Clause 70.*—This clause relates to the establishment of State Mining Regulatory Authority.

Sub-clause (1) of this clause provides that the State Government may, by notification, establish with effect from such date as may be specified therein, a State Authority to be known as the State Mining Regulatory Authority, to exercise the powers and functions, *mutatis mutandis*, in respect of minor minerals, as is exercisable under clauses 68 and 69 by the National Authority.

Sub-clause (2) of this clause provides that without prejudice to the provisions of sub-clause (1), the State Government may confer on the State Authority the functions relating to monitoring and regulating the operation of the Sustainable Development Framework in respect of minor minerals and for major minerals after approval of the Central Government.

*Clause 71.*—This clause relates to the Composition and procedures of the State Authority.

This clause provides that the composition and procedures of the State Authority referred to in clause 70 shall be such as may be prescribed by the State Government. The proviso to the said clause provides that in respect of functions relating to the Sustainable Development Framework the procedures shall be as in accordance with the provisions contained in clause 46.

*Clause 72.*—This clause relates to the powers and functions of the State Authority.

Sub-clause (1) of this clause provides that subject to the provisions of this Act, the State Authority shall have the powers to authorise investigation and institute prosecution against any person for offences under this Act in respect of minor minerals or major minerals in the following cases, namely:— (a) exploration and mining operations for any mineral without licence or lease; (b) undertaking of any mining or exploration activity outside the area granted under licence or lease; (c) transactions relating to possession of mineral stock of unknown origin, or such mineral which cannot be satisfactorily be accounted for; (d) transportation, storage, trade or export, of illegally raised mineral without lawful authority; (e) any other matter pertaining to illegal mining referred to the State Authority by the State Government. The proviso to the said sub-clause provides that in any case where the matter is under investigation or prosecution by the National Authority, the State Authority shall not carry out any further investigation or prosecution except with the approval of the National Authority.

Sub-clause (2) of this clause provides that notwithstanding anything contained in clause 85, the order of the State Authority shall not be subject to revision by the National Tribunal.

*Clause 73.*— This clause relates to the Powers of the Central Government to supersede National Authority.

Sub-clause (1) of this clause provides that if, at any time, the Central Government is of the opinion,— (a) that, on account of circumstances beyond the control of the National Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or (b) that the National Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the National Authority or the administration of the National Authority has suffered; or (c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may for reasons to be recorded, by notification, supersede the National Authority for such period, not exceeding one year, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act. The proviso to the said sub-clause provides that before issuing any such notification, the Central Government shall give a reasonable opportunity to the National Authority to make representations against the proposed supersession and shall consider the representations, if any, of the National Authority.

Sub-clause (2) of this clause provides that upon the publication of a notification under sub-clause (1) superseding the National Authority,— (a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such; (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the National Authority shall, until the National Authority is reconstituted under sub-clause (3), be exercised and discharged by the person or persons referred to in sub-clause (1); and (c) all properties owned or controlled by the National Authority shall, until the National Authority is reconstituted under sub-clause (3), vest in the Central Government.

Sub-clause (3) of this clause provides that on or before the expiration of the period of supersession specified in the notification issued under sub-clause (1), the Central Government shall reconstitute the National Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) of sub-clause (2) shall not be deemed to be disqualified for reappointment.

Sub-clause (4) of this clause provides that the Central Government shall cause a copy of the notification issued under sub-clause (1) and a full report of any action taken under this clause and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

*Clause 74.*— This clause relates to the Power of State Government to supersede State Authority.

Sub-clause (1) of this clause provides that if, at any time, the State Government is of the opinion,— (a) that, on account of circumstances beyond the control of the State Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or (b) that the State Authority has persistently defaulted in complying with any direction given by the State Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the State Authority or the administration of the State Authority has suffered; or (c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may for reasons to be recorded, by notification, supersede the State Authority for such period, not exceeding one year, as may be specified in the notification and appoint a person or persons as the Governor may direct

to exercise powers and discharge functions under this Act. The proviso to the said sub-clause provides that before issuing any such notification, the State Government shall give a reasonable opportunity to the State Authority to make representations against the proposed supersession and shall consider the representations, if any, of the State Authority.

Sub-clause (2) of this clause provides that upon the publication of a notification under sub-clause (1) superseding the State Authority,— (a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such; (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the State Authority shall, until the State Authority is reconstituted under sub-clause (3), be exercised and discharged by the person or persons referred to in sub-clause (1); and (c) all properties owned or controlled by the State Authority shall, until the State Authority is reconstituted under sub-clause (3), vest in the State Government.

Sub-clause (3) of this clause provides that on or before the expiration of the period of supersession specified in the notification issued under sub-clause (1), the State Government shall reconstitute the State Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) of sub-clause (2) shall not be deemed to be disqualified for reappointment.

Sub-clause (4) of this clause provides that the State Government shall cause a copy of the notification issued under sub-clause (1) and a full report of any action taken under this clause and the circumstances leading to such action to be laid before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

*Clause 75.*—This clause relates to the Establishment of the National Mining Tribunal and benches thereof.

This clause provides that the Central Government shall by notification establish with effect from such date as may be specified therein, a Tribunal to be known as the National Mining Tribunal, to exercise jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

*Clause 76.*—This clause relates to the Composition of the National Mining Tribunal.

Sub-clause (1) of this clause provides that the National Mining Tribunal shall consist of a full time Chairperson and not more than seven judicial Members and seven expert Members to be appointed, by notification, by the Central Government.

Sub-clause (2) of this clause provides that the Chairperson of the National Mining Tribunal may, if considered necessary, invite any one or more persons having specialised knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case.

Sub-clause (3) of this clause provides that subject to the other provisions of this Act, the jurisdiction, powers and authority of the National Mining Tribunal may be exercised by Benches thereof as may be notified by the Central Government.

Sub-clause (4) of this clause provides that subject to the other provisions of this Act, a Bench shall consist of three Members with Chairperson or an Expert Member and one Judicial Member and third Member who may be either Expert Member or Judicial Member.

Sub-clause (5) of this clause provides that notwithstanding anything contained in sub-clause (1), the Chairperson may transfer a Member from one Bench to another Bench.

Sub-clause (6) of this clause provides that subject to the other provisions of this Act, the Benches of the National Mining Tribunal shall ordinarily sit at Delhi (which shall be known as the Principal Bench) and at such other places as the Central Government may, by notification, specify.

*Clause 77.*— This clause relates to the Qualifications for appointment as Chairperson or Member of the National Mining Tribunal.

Sub-clause (1) of this clause provides that a person shall not be qualified for appointment as Chairperson of the National Mining Tribunal, unless he,— (a) is of not less than fifty-five years of age; (b) has special knowledge and experience of not less than four years in law relating to mines and exploration; and (c) has experience of quasi-judicial functions. The proviso to the said sub-clause provides that a person who is, or has been in the service of Government shall not be appointed as a Chairperson unless such person has held the post of Secretary or Additional Secretary to the Government of India or any equivalent post in the Central Government or the State Government, as the case may be, for a period of not less than three years.

Sub-clause (2) of this clause provides that a person shall not be qualified for appointment as Judicial Member unless he,— (a) is of not less than fifty-five years of age; (b) has held a judicial office in the territory of India for at least ten years or who has been a member of the Indian Legal Service and has held a post in Grade I of that service or any equivalent post for at least three years, or who has been an advocate for at least ten years with experience in dealing with mining related matters.

Sub-clause (3) of this clause provides that a person shall not be qualified for appointment as an Expert Members, unless he,— (a) is of not less than fifty-five years of age; (b) has experience in the field of mining sector at the national level, and has held the post of Joint Secretary to the Government of India or any equivalent post in the Central Government or State Government, as the case may be, for at least five years.

Sub-clause (4) of this clause provides that the Central Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or any Member, make a reference to the Selection Committee for filling up of the vacancy.

*Clause 78.*— This clause relates to the Selection Committee for selection of Chairperson and Members.

Sub-clause (1) of this clause provides that the Central Government shall, for the purpose of selection of the Chairperson and Members of the National Mining Tribunal constitute a Selection Committee, consisting of the following, namely:— (a) Cabinet Secretary—Chairperson; (b) Secretary in the Ministry of Mines—Member; (c) Secretary in the Ministry of Law and Justice—Member; (d) one expert to be nominated by the Ministry of Mines—Member.

Sub-clause (2) of this clause provides that the Secretary in the Ministry of Mines, Government of India shall be the Convenor of the meeting of the Selection Committee.

Sub-clause (3) of this clause provides that the Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it.

Sub-clause (4) of this clause provides that the Selection Committee shall recommend a panel of two names in order of preference for every vacancy referred to it and the Government shall make appointment from such panel.

Sub-clause (5) of this clause provides that before recommending any person for appointment as a Chairperson or a Member of the National Tribunal, the Selection Committee shall satisfy itself that such person shall not have any financial or other interest, which is likely to affect prejudicially his functions as Chairperson or Member.

Sub-clause (6) of this clause provides that no appointment of the Chairperson or a Member of the National Mining Tribunal shall be invalid merely by reason of any vacancy in the Selection Committee.



Sub-clause (7) of this clause provides that subject to the provisions of sub-clauses (1) to (6), the Selection Committee may regulate its own procedure.

*Clause 79.*— This clause relates to the Terms of office, salaries and allowances of Chairperson and Members of the National Mining Tribunal.

Sub-clause (1) of this clause provides that the Chairperson of the National Mining Tribunal shall hold office for a term of five years from the date on which he enters upon his office or up to the age of sixty-seven years, whichever is earlier.

Sub-clause (2) of this clause provides that a Member of the National Mining Tribunal shall hold office for a term of five years from the date on which he enters upon his office or up to the age of sixty-five years, whichever is earlier.

Sub-clause (3) of this clause provides that the salary or honorarium and other allowances payable to, and other terms and conditions of service of, the chairperson and other members of the National Mining Tribunal shall be such as may be prescribed by the Central Government. The proviso to the said sub-clause provides that neither the salary or honorarium and other allowances nor the other terms and conditions of service of the Chairperson and other members of the National Mining Tribunal shall be varied to their disadvantage after appointment.

*Clause 80.*— This clause relates to the Resignation of the Chairperson or a Member of the National Mining Tribunal.

This clause provides that a Chairperson and a Member of the National Mining Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office. The proviso to the said sub-clause provides that a Chairperson and a Member of the National Mining Tribunal shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

*Clause 81.*— This clause relates to the Removal and suspension of Chairperson or Members of National Mining Tribunal.

Sub-clause (1) of this clause provides that the Central Government may, by order, remove from office, the Chairperson or any Member of the National Mining Tribunal, if the Chairperson or such other Member, as the case may be, in its opinion —(a) has been adjudged as insolvent; or (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or (c) has become physically or mentally incapable of acting as a member; or (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or (f) has engaged at any time during his term of office in any other employment.

Sub-clause (2) of this clause provides that no Chairperson or any other Member of the National Mining Tribunal shall be removed from office except by an order of the Central Government on the ground of his proved misbehaviour or incapacity after the Central Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Chairperson or Member, as the case may be, ought on any such ground to be removed.

Sub-clause (3) of this clause provides that the Central Government may suspend Chairperson or a Member of the National Mining Tribunal, as the case may be, in respect of whom an inquiry under sub-clause (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

*Clause 82.*— This clause relates to the Member of the National Mining Tribunal to act as its Chairperson in certain cases.

Sub-clause (1) of this clause provides that in the event of the occurrence of any vacancy in the office of the Chairperson of the National Mining Tribunal by reason of his death or resignation, the senior-most expert Member of the National Mining Tribunal shall act as the Chairperson of the Tribunal until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

Sub-clause (2) of this clause provides that when the Chairperson of the National Mining Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the senior-most expert Member of the National Mining Tribunal, shall discharge the functions of the Chairperson until date on which the Chairperson resumes his duties.

*Clause 83.*— This clause relates to the Vacancies, etc., not to invalidate proceedings of National Mining Tribunal.

This clause provides that no act or proceeding of the National Mining Tribunal shall be invalid merely by reason of—(a) any vacancy in, or any defect in the constitution of, the National Mining Tribunal; or (b) any defect in the appointment of a person as the Chairperson or a Member; or (c) any irregularity in the procedure of the National Mining Tribunal not affecting the merits of the case.

*Clause 84.*— This clause relates to the Staff of National Mining Tribunal.

Sub-clause (1) of this clause provides that the Central Government shall determine the nature and categories of the officers and other employees required to assist the National Mining Tribunal in the discharge of its functions.

Sub-clause (2) of this clause provides that the recruitment of the officers and other employees of the National Mining Tribunal shall be made by the Chairperson in such manner as may be prescribed by the Central Government.

Sub-clause (3) of this clause provides that the officers and other employees of the National Mining Tribunal shall discharge their functions under the general superintendence of the Chairperson; and

Sub-clause (4) of this clause provides that the salaries and allowances and conditions of service of the officers and other employees of the National Mining Tribunal shall be such as may be prescribed by the Central Government.

*Clause 85.*— This clause relates to the Powers and procedures of the National Mining Tribunal.

Sub-clause (1) of this clause provides that subject to the provisions of this Act, the National Mining Tribunal shall have the powers with respect to major minerals— (a) to adjudicate on applications seeking directions to the Central Government or the State Governments or an Authority of the State Government to dispose of an application made to it, including an application for grant or transfer of mineral concession under the Act, with respect to any major mineral within such time as the National Mining Tribunal may stipulate, in such cases where the Central Government or State Government, as the case may be, has failed to dispose off the application within the time specified under this Act; (b) to hear applications from any affected person in relation to orders and directions issued under this Act relating to preparation, approval and implementation of Mining Plans and Mine Closure Plans and Sustainable Development Framework; (c) to hear applications made to it in the nature of revisions from the affected persons and confirm or set aside any order passed by the Central Government or the State Government or an Authority of the State Government, as the case may be, under this Act or the rules made thereunder as it may deem just and proper.

Sub-clause (2) of this clause provides that subject to the provisions of this Act and the rules made thereunder, the National Mining Tribunal shall have the power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions.

Sub-clause (3) of this clause provides that subject to other provisions of this Act, the National Mining Tribunal may call for the records of the case and pass such order or direction in respect of the matter specified in sub-clause (1), as it may deem fit. The proviso to the said sub-clause provides that the National Mining Tribunal shall, before passing any order or direction, under this sub-clause issue notice to the Central Government or the State Government or an Authority of the State Government, as the case may be, and give a reasonable opportunity to the affected parties and if necessary any other authority, as the case may be, of being heard. The proviso to the said sub-clause further provides that the National Mining Tribunal shall dispose of the case within a period of six months from the date of filing of the application unless for reasons to be recorded, the National Mining Tribunal extends the time period for such disposal.

Sub-clause (4) of this clause provides that the National Mining Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— (a) summoning and enforcing the attendance of any person and examining him an oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 requisition any public record or document or copy of such record or document from any other; (e) issuing commissions for the examination of witness or documents; (f) reviewing its decision; (g) dismissing an application for default or deciding its *ex parte*; (h) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; (i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any applications made or appeal filed under this Act; (j) any other matter which may be prescribed by the Central Government.

Sub-clause (5) of this clause provides that all proceedings before the National Mining Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228, and for the purposes of section 196 of the Indian Penal code and the Tribunal shall be deemed to be a civil court for the purposes of clause 195 and chapter XXVI of the code of Criminal Procedure, 1973.

Sub-clause (6) of this clause provides that on the conclusion of proceedings, the National Mining Tribunal, shall pass such orders as it deems fit and provide such relief as may be desirable, including the award of such punitive damages, as it deems fit, to the affected party at issue.

Sub-clause (7) of this clause provides that every order made by the National Mining Tribunal under sub-clause (6) shall be signed by the Chairperson or Member or Members who heard the case and passed the order.

**Clause 86.**— This clause relates to the application to National Mining Tribunal.

Sub-clause (1) of this clause provides that any person aggrieved by an order of the Central Government or the State Government or an Authority of the State Government, as the case may be, may make an application to the National Mining Tribunal, in such form and accompanied by such fee as may be prescribed by the Central Government, within a period of ninety days from the date on which a copy of such order is received by such aggrieved person. The proviso to the said sub-clause provides that the National Mining Tribunal may entertain an application after the expiry of the said period of ninety days if it is satisfied, for reasons to be recorded that there was sufficient cause for not filing it within that period. The proviso to the said sub-clause further provides that an order of the State Government or the Central Government, or an Authority of the State Government, as the case may be, shall not be revised by the Tribunal except on grounds substantially similar to those specified in section 115 of the Code of Civil Procedure, 1908.

Sub-clause (2) of this clause provides that where an application before the National Mining Tribunal is found to be frivolous or vexatious, it shall, for reasons to be recorded in

writing, dismiss the application and make an order that the applicant shall pay to the respondent such costs as may be specified in the order.

*Clause 87.*— This clause relates to the Transfer of revisions pending before Central Government to National Tribunal.

This clause provides that all revision cases pending before the Central Government under section 30 of the Mines and Minerals (Development and Regulation) Act, 1957, as it stood before its repeal, before the Central Government shall, on commencement of this Act, stand transferred to the National Mining Tribunal on its establishment and to be disposed of as an application under clause 66 of this Act.

*Clause 88.*— This clause relates to the Appeal to High Court.

Sub-clause (1) of this clause provides that notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force, an appeal shall lie against any order, not being an interlocutory order, of the National Mining Tribunal to the High Court on one or more grounds specified in clause 100 of that Code.

Sub-clause (2) of this clause provides that no appeal shall lie against any decision or order made by the National Mining Tribunal with the consent of the parties.

*Clause 89.*— This clause relates to the Establishment of State Mining Tribunal.

This clause provides that the State Government may, by notification, establish with effect from such date as may be specified therein, a Tribunal to be known as the State Mining Tribunal, to exercise jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

*Clause 90.*— This clause relates to the Composition of State Mining Tribunal and benches thereof.

This clause provides that the State Mining Tribunal shall consist of a full time Chairperson and two other Members of which one shall be a judicial Member and other shall be an Expert Member, to be appointed by the State Government.

*Clause 91.*— This clause relates to the Qualifications for appointment as Chairperson or Member of State Mining Tribunal.

Sub-clause (1) of this clause provides that a person shall not be qualified for appointment as Chairperson of the State Mining Tribunal, unless he,—(a) is of not less than fifty-five years of age; (b) has special knowledge and experience of not less than four years in law relating to mines and exploration; and (c) has experience of quasi-judicial functions. The proviso to the said sub-clause provides that a person who is, or has been in the service of Government shall not be appointed as a Chairperson unless such person has held the post of Principal Secretary to the State Government or any equivalent post, as the case may be, for a period of not less than three years.

Sub-clause (2) of this clause provides that a person shall not be qualified for appointment as Judicial Member unless he,—(a) is of not less than fifty-five years of age; (b) has held a judicial office in the territory of India for at least seven years or who has been a member of the Indian Legal Service and has held a post in Grade II of that service or any equivalent post for at least three years, or who has been an advocate for at least ten years with experience in dealing with mining related matters.

Sub-clause (3) of this clause provides that a person shall not be qualified for appointment as Expert Members, unless he,—(a) is of not less than fifty-five years of age; (b) has experience in the field of mining sector at the State level, and has held the post of Additional Secretary in the State Government or any equivalent post for at least five years.

Sub-clause (4) of this clause provides that the State Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal

of the chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or any Member, make a reference to the Selection Committee for filling up of the vacancy.

*Clause 92.*—This clause relates to the Selection Committee for selection of Chairperson and Members of State Mining Tribunal.

Sub-clause (1) of this clause provides that the State Government shall, for the purpose of selection of the Chairperson and Members of the State Mining Tribunal constitute a Selection Committee, consisting of the Chief Secretary of the State as Chairperson, the Principal Secretary in the Department of Mines, Secretary, Department of Legal Affairs and one expert to be nominated by the Chief Secretary as Members of the Selection Committee.

Sub-clause (2) of this clause provides that the Principal Secretary to the State Government dealing with mines shall be the Convenor of the meetings of the Selection Committee.

Sub-clause (3) of this clause provides that the Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it.

Sub-clause (4) of this clause provides that the Selection Committee shall recommend a panel of two names in order of preference for every vacancy referred to it and the State Government shall make appointment from such panel.

Sub-clause (5) of this clause provides that before recommending any person for appointment as a Chairperson or a Member of the State Mining Tribunal, the Selection Committee shall satisfy itself that such person does not have any financial or other interest, which is likely to affect prejudicially his functions as Chairperson or Member.

Sub-clause (6) of this clause provides that no appointment of the Chairperson or a Member of the State Mining Tribunal shall be invalid merely by reason of any vacancy in the Selection Committee.

Sub-clause (7) of this clause provides that subject to the provisions of sub-clauses (1) to (6), the Selection Committee shall regulate its own procedure.

*Clause 93.*— This clause relates to the Terms of office, salaries and allowances of Chairperson and Members of State Mining Tribunal.

Sub-clause (1) of this clause provides that the Chairperson of the State Mining Tribunal shall hold office for a term of five years from the date on which he enters upon his office or upto the age of sixty-seven years, whichever is earlier.

Sub-clause (2) of this clause provides that a Member of the State Mining Tribunal shall hold office for a term of five years from the date on which he enters upon his office or upto the age of sixty-five years, whichever is earlier.

Sub-clause (3) of this clause provides that the salary or honorarium and other allowances payable to and other terms and conditions of service of the chairperson and other members of the State Mining Tribunal shall be such as may be prescribed by the State Government. The proviso to the said sub-clause provides that neither the salary or honorarium and other allowances nor the other terms and conditions of service of the chairperson and other members of the State Mining Tribunal shall be varied to their disadvantage after appointment.

*Clause 94.*— This clause relates to the Resignation of Chairperson and a Member of the State Mining Tribunal.

This clause provides that a Chairperson and a Member of the State Mining Tribunal may, by notice in writing under his hand addressed to the State Government, resign his office. The proviso to the said sub-clause provides that a Chairperson and a Member of the State Mining Tribunal shall, unless he is permitted by the State Government to relinquish his

office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

*Clause 95.*— This clause relates to the Removal and suspension of Chairperson or Members of State Mining Tribunal.

Sub-clause (1) of this clause provides that the State Government may, by order, remove from office, the Chairperson or any Member, if the Chairperson or such other Member of the State Mining Tribunal, as the case may be, in its opinion,— (a) has been adjudged as insolvent; or (b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or (c) has become physically or mentally incapable of acting as a member; or (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or (f) has engaged at any time during his term of office in any other employment.

Sub-clause (2) of this clause provides that no Chairperson or any other Member of the State Mining Tribunal shall be removed from office except by an order of the State Government on the ground of his proved misbehaviour or incapacity after the State Government, has, on an inquiry, held in with the procedure prescribed in his behalf by the State Government, come to the conclusion that the Chairperson or Member, as the case may be, ought on any such ground to be removed.

Sub-clause (3) of this clause provides that the State Government may suspend the Chairperson or any Member of the State Mining Tribunal in respect of whom an inquiry under sub-clause (2) is being initiated or pending until the State Government has passed an order on receipt of the report of the inquiry.

*Clause 96.*— This clause relates to the Member of State Mining Tribunal to act as its Chairperson in certain cases.

Sub-clause (1) of this clause provides that in the event of the occurrence of any vacancy in the office of the Chairperson of the State Mining Tribunal by reason of his death or resignation, the senior-most expert Member of the State Mining Tribunal shall act as the Chairperson of the Tribunal until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

Sub-clause (2) of this clause provides that when the Chairperson of the State Mining Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the senior-most expert Member of the State Mining Tribunal, shall discharge the functions of the Chairperson until date on which the Chairperson resumes his duties.

*Clause 97.*— This clause relates to the Vacancies etc., not to invalidate proceedings of State Mining Tribunal.

This clause provides that no act or proceeding of the State Mining Tribunal shall be invalid merely by reason of— (a) any vacancy in, or any defect in the constitution of, the State Mining Tribunal; or (b) any defect in the appointment of a person as the Chairperson or a Member; or (c) any irregularity in the procedure of the State Mining Tribunal not affecting the merits of the case.

*Clause 98.*— This clause relates to the Staff of State Mining Tribunal.

Sub-clause (1) of this clause provides that the State Government shall determine the nature and categories of the officers and other employees required to assist the State Mining Tribunal in the discharge of its functions.

Sub-clause (2) of this clause provides that the recruitment of the officers and other employees of the State Mining Tribunal shall be made by the Chairperson in such manner as may be prescribed by the State Government.

Sub-clause (3) of this clause provides that the officers and other employees of the State Mining Tribunal shall discharge their functions under the general superintendence of the Chairperson; and

Sub-clause (4) of this clause provides that the salaries and allowances and conditions of service of the officers and other employees of the State Mining Tribunal shall be such as may be prescribed by the State Government.

*Clause 99.*— This clause relates to the Powers and procedures of the State Mining Tribunal.

Sub-clause (1) of this clause provides that subject to the provisions of this Act, the State Mining Tribunal shall have the powers with respect to minor minerals—(a) to adjudicate on applications seeking direction to the State Government or an Authority of the State Government, as the case may be, to dispose of an application made to it, including an application for grant of mineral concession under this Act, with respect to any minor mineral within such time as the State Mining Tribunal may stipulate, in such cases where the State Government has failed to dispose of the application within the time specified in the Act; (b) to hear applications from any affected person in relation to orders or directions issued under this Act relating to preparation, approval and implementation of Mining Plans, mining frameworks and Mine Closure Plans and Sustainable Development Framework; (c) to hear applications made to it in the nature of revisions from the affected persons and confirm or set aside any order passed by the State Government or the State Government or an Authority of the State Government, as the case may be, under this Act or the rules made thereunder as it may deem just and proper.

Sub-clause (2) of this clause provides that subject to the provisions of this Act and the rules made thereunder, the State Mining Tribunal shall have the power to regulate its own procedure and the procedure in all matters arising out of the exercise of its powers or of the discharge of its functions.

Sub-clause (3) of this clause provides that subject to other provisions of this Act, the State Mining Tribunal may call for the records of the case and pass such order or direction in respect of the matter specified in sub-clause (1), as it may deem fit. The proviso to the said sub-clause provides that the State Mining Tribunal shall, before passing any order or direction, under this sub-clause issue notice to the State Government or an Authority of the State Government, as the case may be, and give a reasonable opportunity to the affected persons and if necessary any other authority, as the case may be, of being heard. The proviso to the said sub-clause further provides that the State Mining Tribunal shall dispose of the case within a period of six months from the date of filing of the application unless for reasons to be recorded, the Tribunal extends the time period for such disposal.

Sub-clause (4) of this clause provides that the State Mining Tribunal shall have, for the purposes of discharging its function under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— (a) summoning and enforcing the attendance of any person and examining him an oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) subject to the provisions of clauses 123 and 124 of the Indian Evidence Act, 1872 requisitioning any public record or document or copy of such record or document from any other; (e) issuing commissions for the examination of witness or documents; (f) reviewing its decision; (g) dismissing an application for default or deciding its *ex parte*; (h) setting aside any order of dismissal of any application for default or any order passed by *it ex parte*; (i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any applications made or appeal filed under this Act; (j) any other matter which may be prescribed by the State Government.

Sub-clause (5) of this clause provides that all proceedings before the State Mining Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219, and 228, and for the purposes of section 196 of the Indian Penal code and the Tribunal shall

be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Sub-clause (6) of this clause provides that on the conclusion of proceedings, the State Mining Tribunal, shall pass such orders as it deems fit and provide such relief as may be desirable, including the award of such punitive damages, as it deems fit, to the affected party at issue.

Sub-clause (7) of this clause provides that every order made by the State Mining Tribunal, under sub-clause (6) shall be signed by the Chairperson or Member or Members who heard the case and passed the order.

*Clause 100.*— This clause relates to the Application to State Mining Tribunal.

Sub-clause (1) of this clause provides that every application to the State Mining Tribunal against an order of the State Government or an Authority of the State Government, shall be filed within a period of ninety days from the date on which a copy of the order made by the State Government, is received by the aggrieved party, and it shall be in such form and be accompanied by such fee as may be prescribed by the State Government. The proviso to the said sub-clause provides that the State Mining Tribunal may entertain an application after the expiry of the said period of ninety days if it is satisfied, for reasons to be recorded that there was sufficient cause for not filing it within that period. The proviso to the said sub-clause further provides that a revision application shall not lie except on grounds substantially similar to those specified in clause 115 of the Code of Civil Procedure, 1908.

Sub-clause (2) of this clause provides that where an application before the State Mining Tribunal is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, dismiss the application and make an order that the applicant has to pay to the respondent such costs as may be specified in the order.

*Clause 101.*— This clause relates to the Appeal to High Court.

Sub-clause (1) of this clause provides that notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force, an appeal shall lie against any order, not being an interlocutory order, of the State Mining Tribunal to the High Court on one or more grounds specified in section 100 of that Code.

Sub-clause (2) of this clause provides that no appeal shall lie against any decision or order made by the State Mining Tribunal with the consent of the parties.

*Clause 102.*— This clause relates to the Central Coordination-cum-Empowered Committee.

Sub-clause (1) of this clause provides that the Central Government shall, by notification, constitute a Central Coordination-cum-Empowered Committee consisting of representatives of the Central Government and the State Governments to achieve the objects of the Act.

Sub-clause (2) of this clause provides that the functions of the Central Coordination-cum-Empowered Committee shall be such as may be notified.

Sub-clause (3) of this clause provides that without prejudice to the provisions of the foregoing, the Central Coordination-cum-Empowered Committee may consider and make recommendations regarding any of the following, namely:—(a) improvement in procedure for grant of mineral concessions; (b) coordination among agencies entrusted with according statutory clearance; (c) maintenance of internet-based databases including a mining tenement registry; (d) development, implementation and evaluation of sustainable development framework; and (e) prevention and detection of illegal mining.

Sub-clause (4) of this clause provides that the Central Coordination-cum-Empowered Committee shall meet at least once in three months.

*Clause 103.*— This clause relates to the State Coordination-cum-Empowered Committee.



Sub-clause (1) of this clause provides that the State Government shall by notification constitute a State Coordination-cum-Empowered Committee with representatives of the concerned Departments of the State Government and local representative of Central organisation such as Railways, Highways, Ports and Customs, headed by Chief Secretary or Additional Chief Secretary of the State Government;

Sub-clause (2) of this clause provides that the function of the State Coordination-cum-Empowered Committee shall be:— (i) to oversee clearance by various Departments of the State Government necessary to ensure timely grant of mineral concessions; (ii) review of activities in and around leased areas pursuant to the Corporate Social Responsibility document; (iii) to monitor implementation of Sustainable Development Framework and Final Mine Closure Plans; (iv) coordination of operations for prevention, detection and prosecution of cases of illegal mining; and (v) any other functions as may be prescribed by the State Government;

Sub-clause (3) of this clause provides that the State Coordination-cum-Empowered Committee shall meet at least once in two months.

*Clause 104.*—This clause relates to the National Repositories

Sub-clause (1) of this clause provides that the Central Government may, by notification, establish a National Drill Core Repository for preservation and archiving of drill cores generated during mineral exploration and a National Geophysical Data Repository for holding, authenticating and disseminating geophysical data for the purposes of this Act.

Sub-clause (2) of this clause provides that the Repositories shall be managed or maintained in such manner as may be prescribed by the Central Government.

Sub-clause (3) of this clause provides that the holder of any mineral concession shall, at his own expense, cause to be deposited,— (a) a representative portion of cores selected with the National Drill Core Repository; and (b) all geophysical data collected by him during or part of his reconnaissance, exploration and prospecting operation, with the National Drill Core Repository and National Geophysical Data Repository respectively, in such manner as may be prescribed by the Central Government.

Sub-clause (4) of this clause provides that the Central Government shall prescribe the procedure for making available data from the Repositories to interested persons on such charges as may be prescribed by it. The proviso to the said sub-clause provides that the Repositories, referred to in sub-clause (3) shall not disclose information with respect to any drill core or any geophysical data received by it under this clause till after lapse of six months from the date of termination of the mineral concession, or relinquishment of the area from which the drill core has been drawn or geophysical data has been generated.

*Clause 105.*—This clause relates to the Constitution of Special Courts.

Sub-clause (1) of this clause provides that the State Government may, for the purposes of providing speedy trial of offences referred to in clauses 110, 111, 112 and 113 by notification, constitute as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.

Sub-clause (2) of this clause provides that a Special Court shall consist of a single Judge who shall be appointed by the State Government with the concurrence of the High Court.

Sub-clause (3) of this clause provides that a person shall not be qualified for appointment as a Judge of a Special Court unless he was, immediately before such appointment, of the rank of at least an Additional District and Sessions Judge.

Sub-clause (4) of this clause provides that where the office of the Judge of a Special Court is vacant, or such Judge is absent from the ordinary place of sitting of such Special Court, or he is incapacitated by illness or otherwise in the performance of his duties, any urgent business as the Special Court shall be disposed of in accordance with the direction of

District and Sessions Judge having jurisdiction over the ordinary place of sitting of the Special Court, as notified under sub-clause (1). The proviso to the said sub-clause provides that the High Court of the State may, in case it is necessary or expedient to do so, direct that any business of the special court as may be specified shall be disposed of by any other Special Court or person qualified to be a judge of a Special Court.

*Clause 106.*—This clause relates to the Procedures and powers of special courts.

Sub-clause (1) of this clause provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under clauses 110, 111, 112 and 113 of this Act shall be triable only by the Special Court within whose jurisdiction such offence has been committed.

Sub-clause (2) of this clause provides that where it appears to any court in the course of any inquiry or trial that an offence is punishable under clauses 110, 111, 112 and 113 of this Act it shall transfer such case to such Special Court having jurisdiction, and thereupon the case shall be tried and disposed of by such Special Court in accordance with the provisions of this Act. The proviso to the said sub-clause provides that it shall be lawful for such Special Court to act on the evidence, if any, recorded by any court in the case of presence of the accused before the transfer of the case to any Special Court. The proviso to the said sub-clause further provides that if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witnesses whose evidence has already been recorded, is required in the interest of justice, it may re-summon any such witness and after such further examination, cross-examination or re-examination, if any, as it may permit, the witness shall be discharged.

Sub-clause (3) of this clause provides that the Special Court may, notwithstanding anything contained in sub-clause (1) of section 260 or section 262 of the Code of Criminal Procedure, 1973, try the offence referred to in clauses 110, 111, 112 and 113 of this Act in a summary way in accordance with the procedure prescribed in the said Code and the provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial. The proviso to the said sub-clause provides that where in the course of a summary trial under this sub-clause, it appears to the Special Court that the nature of the case is such that it is undesirable to try such case in summary, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the said Code for the trial of such offence. The proviso to the said sub-clause further provides that in case of any conviction in a summary trial under this clause, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding five years.

Sub-clause (4) of this clause provides that a Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code of Criminal Procedure, 1973, be deemed to have been tendered under section 307 thereof.

Sub-clause (5) of this clause provides that the Special Court may determine the civil liability against a person in terms of money for raising, transporting or causing to be raised or transported without any lawful authority any mineral from any land, which shall not be less than an amount equivalent to two times of the value of mineral and the amount of liability so determined shall be recovered as if it were a decree of civil court.

Sub-clause (6) of this clause provides that the civil liability so determined finally by the Special Court shall be payable to the State Government or to the person in whom the mineral vests, as the case may be.

The explanation to the sub-clause provides that civil liability means loss or damage incurred by the State Government or concerned authorities, as the case may be, due to the commission of an offence, under clauses 110, 111, 112 and 113.

*Clause 107.*—This clause relates to the Special court to have powers of court of sessions.

This clause provides that save as otherwise provided in this Act, the Code of Criminal Procedure, 1973, in so far as they are not inconsistent with the provisions of this Act, shall apply to the proceedings before the Special Court, and the Special Court shall be deemed to be a Court of Session and shall have all powers of a Court of Session and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

*Clause 108.*—This clause relates to the Appeal and revision.

This clause provides that the High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973, as if the Special Court within the local limits of the jurisdiction of the High Court is a District Court, or as the case may be, the Court of Session, trying cases within the local limits of jurisdiction of the High Court.

*Clause 109.*—This clause relates to the Review.

This clause provides that the Special Court may, on a petition or otherwise and in order to prevent miscarriage of justice, review its judgment or order passed under this clause, but no such review petition shall be entertained except on the ground that it was such order passed under a mistake of fact, ignorance of any material fact or any error apparent on the face of the record. The proviso to the said sub-clause provides that the Special Court shall not allow any review petition and modify or set aside its previous order or judgment without hearing the parties affected.

*Clause 110.*—This clause relates to the Punishment for reconnaissance, prospecting and mining operations without licence or lease.

This clause provides that whoever contravenes any of the provisions of clause 4, shall be punished with imprisonment for a term which may extend to,—(i) in cases of exploration without licence, two years, or with fine which may extend to twenty-five thousand rupees per hectare or part thereof subject to a maximum of fifteen lakh rupees in case of prospecting, or with both; (ii) in cases of mining without a lease, three years, or with fine which may extend to ten times the value of the mineral mined, or with both.

*Clause 111.*—This clause relates to the penalty for non implementation of final mine closure plan.

This clause provides that a lessee, who fails to implement a Final Mine Closure Plan in accordance with the provisions of this Act, or, abandons the mine or any portion of the mining lease area, which is likely to be a danger to the health and safety of the inhabitants of the area, shall be liable to a penalty which may extend to one thousand rupees per day per hectare for the period of such default.

*Clause 112.*—This clause relates to the penalty for disobeying direction of the State Government, etc.

Sub-clause (1) of this clause provides that whoever disobeys any direction given by the State Government or the Indian Bureau of Mines or any other authority empowered in this behalf under this Act or any other law for the time being in force shall be liable to a penalty which may extend to ten thousand rupees per day for the period of such disobedience. Sub-clause (2) of this clause further provides that any person, who fails to comply with the directions of the State Government under sub-clause (4) of clause 30, shall be liable to be punished with imprisonment for a term not less than three years.

*Clause 113.*—This clause relates to the penalty for contravention of Act and rules. This clause provides that whoever contravenes any provision of the proposed legislation or the rules made thereunder shall, if no penalty is provided elsewhere be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees, or with both, and in the case of continuing contravention, with an additional

fine which may extend to one thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

*Clause 114.*—This clause relates to the recovery, seizure, etc., of minerals raised by any person without lawful authority.

Sub-clause (1) of this clause provides that whenever any person raises, without any lawful authority, any mineral from any land, without prejudice to any other action under the law for the time being in force, the State Government may recover from such person, or from such other person to whom the mineral may have been transferred, the mineral so raised, and the cost of its disposal or, where such mineral has already been disposed of, the price of the mineral so disposed of, and may also recover from such person, rent, royalty, tax or cess, as the case may be, for the period during which the land was occupied by such person without such lawful authority.

Sub-clause (2) of this clause provides that whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, any officer empowered by the Central Government or the State Government, as the case may be, may by general or special order in this behalf seize such mineral, tool, equipment, vehicle or any other thing, and the court having jurisdiction may order the confiscation and disposal of any such mineral, tool, equipment, vehicle or any other thing so seized.

*Clause 115.*—This clause relates to the offences by companies.

Sub-clause (1) of this clause provides that if the person committing an offence under this Act or any rules made thereunder is a company, every person who at the time the offence was committed was directly in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of offence and be liable to be proceeded against and punished accordingly. The proviso to the said sub-clause provides that nothing contained in this sub-clause shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

Sub-clause (2) of this clause provides that notwithstanding anything contained in sub-clause (1), where an offence under this Act has been committed by the company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and be liable to be proceeded against and punished accordingly.

The explanation to the sub-clause provides that (a) “company” means any body corporate and includes a firm or cooperative or other association of individuals; and (b) “director” in relation to a firm means a partner in the firm.

*Clause 116.*—This clause relates to the Cognizance of offences by courts:

This clause provides that no court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon a complaint in writing made by a person authorised in this behalf by general or special order of the Central Government or the State Government, as the case may be.

*Clause 117.*—This clause relates to the Compounding of offences.

Sub-clause (1) of this clause provides that any offence punishable under this Act or any rule made thereunder which provides for imprisonment may, either before or after the institution of the prosecution, be compounded by the person authorised under clause 116 to make a complaint to the court with respect to that offence, on payment to that person, for credit to the Government, of such sum as the compounding fee at such rate as may be prescribed which shall not exceed five times the maximum rate of the fine for the offence.

Sub-clause (2) of this clause provides that where an offence is compounded under sub-clause (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded, and the offender, if in custody, shall be released forthwith.

*Clause 118.*—This clause relates to the recovery of certain sums as arrears of land revenue.

Sub-clause (1) of this clause provides that any rent, royalty, tax, cess, fee or other sum due to the Government either under this Act or any rule made thereunder or under the terms and conditions of any non-exclusive reconnaissance licence, high-technology reconnaissance cum exploration licence, prospecting licence or mining lease may, on a certificate of such officer as may be specified by the State Government in this behalf by general or special order, be recovered in the same manner as if it were an arrear of land revenue and every such sum which becomes due to the Government on or after the commencement of this Act, together with the interest due thereon shall be a first charge on the assets of the holder of the non-exclusive reconnaissance licence, high-technology reconnaissance cum exploration licence, prospecting licence or mining lease, as the case may be. The proviso to the said sub-clause provides that in respect of a mineral concession relating to a land in which the mineral vests in a private person, such sum may also be recovered in the same manner from such person.

*Clause 119.*—This clause relates to the ineligibility for grant of mineral concession.

Sub-clause (1) of this clause provides that any director, manager, secretary or other officer of the company, or any other person convicted of an offence punishable under this Act, or a company or its director, manager, secretary or any other person punishable with fine under this Act, such company or its director, manager, secretary or other officer or any other such person shall be ineligible for the purpose of grant of any mineral concession under this Act for a period of five years from the date of conviction, or imposition of fine, as the case may be.

Sub-clause (2) of this clause provides that if any person convicted of an offence under clauses 110, 111, 112 and 113 of this Act holds a mineral concession under this Act at the time of such conviction, the State Government, having regard to the nature and gravity of the offence, may cancel or determine any or all such mineral concessions. The proviso to the said sub-clause provides that in respect of a mineral concession relating to land the minerals of which vest in a private person, the Government may direct such person to determine the lease. The proviso to the said sub-clause further provides that no such order shall be made without giving an opportunity of being heard to the person holding the mineral concession and recording reasons. The proviso to the said sub-clause also provides that provisions of sub-clause (3) of clause 30 shall, *mutatis mutandis*, apply to every such case under this clause.

*Clause 120.*—This clause relates to the punishment for vexatious complaints.

This clause provides that whoever files any written complaint, referred to in clause (g) of sub-clause (1) of clause 69, to the National Authority which is found to be frivolous or vexatious, he shall be punishable with fine which may extend to fifty thousand rupees.

*Clause 121.*—This clause relates to the punishment for violation of directions of National Authority.

This clause provides that whoever violates the directions of the National Authority issued under sub-clause (4) of clause 68, shall be punishable with a fine which may extend to five thousand rupees and in case of second or subsequent offence with a fine which may extend to ten thousand rupees and in the case of continuing contravention with an additional fine which may extend to ten thousand rupees for every day during which the default continues.

*Clause 122.*—This clause relates to the punishment for obstructing Investigation Officer or Investigating Authority.

This clause provides that whoever, obstructs an Investigation Officer or the Investigating Authority exercising the power of the Investigation Officer, in the exercise of his power or discharge of his duties under this Act or the rules made thereunder, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

*Clause 123.*—This clause relates to the power of entry and inspections.

Sub-clause (1) of this clause provides that for the purpose of ascertaining the position of the working, actual or prospective, of any mine or abandoned mine or for any other purpose connected with this Act or the rules made thereunder, any person authorised by the Indian Bureau of Mines or the State Directorate in this behalf by general order, may,— (a) enter and inspect any mine; (b) survey and take measurements in any such mine; (c) weigh, measure or take measurements of the stocks of minerals lying at any mine; (d) examine any document, book, register, or record in the possession or power of any person having the control of, or connected with, any mine and place marks of identification thereon, and take extracts from or make copies of such document, book, register or record; (e) order the production of any such document, book, register, record, referred to in clause (d); and (f) examine any person having the control of, or connected with, any mine.

The explanation to the said sub-clause provides that the expression “record” includes any electronic record as referred to in clause (t) of section 2 of the Information Technology Act, 2000.

Sub-clause (2) of this clause provides that every person authorised by the Indian Bureau of Mines or the State Directorate and in case of coal minerals by the Central Government under sub-clause (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, and every person to whom an order or summons is issued by virtue of the power conferred by clause (c) or clause (f) of sub-clause (1) shall comply with such order or summons, as the case may be.

*Clause 124.*—This clause relates to the power to search, enter and inspect by any officer of the Central Government or a State Government.

Sub-clause (1) of this clause provides that if any officer of the Central Government or a State Government authorised by the Central Government or a State Government, as the case may be, in this behalf by general or special order has reason to believe that any mineral has been raised in contravention of the provisions of this Act or the rules made thereunder or any document or thing in relation to such mineral is secreted in any place or vehicle, he may search for such mineral, document or thing and the provisions of section 100 of the Code of Criminal Procedure, 1973 shall apply to every such search.

Sub-clause (2) of this clause provides that for the purpose of ascertaining the position of the working, actual or prospective, of any mine or abandoned mine or for any other purpose connected with this Act or the rules made thereunder, any person authorised by the Central Government or a State Government, as the case may be, in this behalf by general or special order, may,— (a) enter and inspect any mine or mining operations or mineral bearing area; (b) survey and take measurements in any such mine or area; (c) weigh, measure or take measurements of the stocks of minerals lying at any mine; (d) examine any document, book, register, or record in the possession or power of any person having the control of, or connected with, any mine or mining operations and place marks of identification thereon, and take extracts from or make copies of such document, book, register or record; (e) order the production of any such document, book, register, record, as is referred to in clause (d); and (f) examine any person having the control of, or connected with, any mine or mining operations.

The explanation to the said sub-clause provides that the expression ‘Record’ includes electronic record as referred to in clause (t) of clause 2 of the Information Technology Act, 2000.

Sub-clause (3) of this clause provides that every person authorised by the Central Government or a State Government, as the case may be, under sub-clause (1) shall be deemed to be a public servant within the meaning of clause 21 of the Indian Penal Code, and every person to whom an order or summons is issued by virtue of the power conferred by clause (c) or clause (f) of that sub-clause shall comply with such order or summons, as the case may be.

The explanation to the said sub-clause provides that the expression "Mining operations" includes any activity relating to the raising of any mineral, whether licenced or not.

*Clause 125.*—This clause relates to the declaration of a mineral as a major mineral.

This clause provides that the Central Government may, by notification, declare any mineral, or any grade thereof as a major mineral for all or any specified purpose or omit any mineral from the list of major minerals, and upon doing so, the First Schedule to the Act shall be deemed to have been amended.

*Clause 126.*—This clause relates to the accreditation of agencies.

This clause provides that the Central Government may prescribe the qualifications and conditions of accreditation of agencies authorised to prepare feasibility studies in accordance with the provisions of the United Nations Framework Classification adopted and notified by the Central Government for the purposes of this Act or any other notified code of practice, including preparation of mining plans, mine closure plans and plans under sustainable development framework, and the Indian Bureau of Mines shall function as the accreditation grants agency for the purpose.

*Clause 127.*—This clause relates to the Special provisions to deal with certain contingencies.

Sub-clause (1) of this clause provides that it shall be the duty of the Indian Bureau of Mines or any authority of the Central Government as may be designated in respect of coal and atomic minerals, to render such assistances as may be required by the State Government to ensure that mining activities are regulated in accordance with the provisions of this Act.

Sub-clause (2) of this clause provides that where the Indian Bureau of Mines or authority designated under sub-clause (1), on the basis of information available to it is of the opinion that the provisions of this Act and the rules made thereunder are not being complied with and that illegal or unscientific mining is going on in any State, the Indian Bureau of Mines or such authority shall make a report to this effect to the Central Government, and the Central Government may issue such direction as it may consider necessary to the State Government, relating to all or any of the following matters, namely:— (a) investigation and prosecution of offences; (b) revocation of mineral concessions; and (c) any measures to strengthen the administrative machinery for better regulation of mining in accordance with the provisions of Act.

Sub-clause (3) of this clause provides that where it appears to the Central Government that the directions referred to in sub-clause (2) have not been complied with or where it appears that despite the purported compliance of the directions further steps are necessary, the Central Government may direct the authority referred to in sub-clause (2), for:— (a) making written complaints under clause 61 for the investigation and prosecution of offences; (b) revocation of mineral concessions in accordance with the provisions of the Act; and (c) any other measures as may be deemed fit in the circumstances.

*Clause 128.*—This clause relates to the approval of the Central Government to the State Government.

This clause provides that where in any case previous approval of the Central Government is required under this Act or the rules made thereunder, the request for such approval shall be made to the Central Government by the State Government along with the

recommendations of the State Government on the matters for which the prior approval of the Central Government is sought, and all facts relevant to the matter on which such approval is sought.

*Clause 129.*—This clause relates to the bar of jurisdiction.

This clause provides that no civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Special Court or the National Mining Tribunal and the State Mining Tribunal is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

*Clause 130.*—This clause relates to the delegation of powers.

Sub-clause (1) of this clause provides that the Central Government may, by notification, direct that any power exercisable by it under this Act may, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be also exercisable by:— (a) such officer or authority subordinate to the Central Government; or (b) such State Government or such officer or authority subordinate to a State Government; as may be specified in the notification.

Sub-clause (2) of this clause provides that the State Government may, by notification may, direct that any power exercisable by it under this Act may, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officer or authority subordinate to the State Government as may be specified in the notification.

Sub-clause (3) of this clause provides that any rule made by the Central Government under this Act may confer powers and impose duties or authorise the conferring of powers and imposition of duties upon any State Government or any officer or authority subordinate thereto.

*Clause 131.*—This clause relates to the power of the Central Government to make rules.

This clause confers power upon the Central Government to make rules in respect of the rules specified in the said rules.

*Clause 132.*—This clause relates to the power of the State Government to make rules.

This clause confers power upon the State Government to make rules in respect of the rules specified in the said rules.

*Clause 133.*—This clause relates to the laying of the rules.

This clause provides that the rules made by the Central Government and notifications issued by it under sub-section (3) of section 41, sub-section (3) of section 42 and section 125 shall be laid before each House of Parliament. Similarly every rule made by the State Government and notifications issued by it under sub-section (4) of section 41 and sub-section (4) of section 42 shall be laid before the State Legislature, where it consists of two Houses, or where such legislature consists of one House, before that House.

*Clause 134.*—This clause relates to the Members and staff of Tribunals to be public servants.

This clause provides that the Chairperson and other Members and the officers and other employees of the National Mining Regulatory Authority, National Mining Tribunal, State Mining Regulatory Authority and State Mining Tribunal are deemed to be the public servants within the meaning of section 21 of the Indian Penal Code.

*Clause 135.*—This clause relates to the application of other law not barred.

This clause provides that the provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other laws for the time being in force.



*Clause 136.*—This clause relates to the protection of action taken in good faith.

This clause provides that no suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

*Clause 137.*—This clause relates to the transitory provisions.

Sub-clause (1) of this clause provides that all applications received under the Mines and Minerals (Development and Regulation) Act, 1957:— (i) for grant of prospecting licence or a mining lease after completing exploration under a reconnaissance permit or a prospecting licence, as the case may be, or, (ii) for which prior approval of the Central Government for grant of mineral concessions, has been given or, (iii) where a letter of intent (by whatever name it is called) has been issued by the State Government to grant reconnaissance permit or prospecting licence or mining lease, as the case may be, and was pending grant of the concession under this Act for fulfilment of the conditions of the letter of intent, and the application for grant of the mineral concessions is pending with the State Government at the time of commencement of this Act, shall be processed in accordance with the provisions of this Act for grant of concession. The proviso to the said sub-clause provides that the State Government may impose special conditions relating to payment of application fees, licence fee, security, at the time of grant of mineral concessions to holder of application considered in terms of this sub-clause to comply with the provisions of this Act.

The explanation to the said sub-clause clarifies that in case of an application for reconnaissance permit considered under this Act, in terms of this sub-clause, the State Government shall grant a non-exclusive reconnaissance licence:

Sub-clause (2) of this clause provides that in case of such area where applications for grant of prospecting licence or mining lease received before the commencement of this Act have become ineligible in terms of the provisions of the Act, the area applied for under such applications shall be notified by the State Government for inviting applications in accordance with the provisions of clause 13 for prospecting or for mining, as may be appropriate, having regard to the available evidence of mineralisation. The proviso to the said sub-clause provides that notwithstanding anything contained in clause 13, the State Government may amalgamate areas or expand areas covered by such applications in the interest of scientific mining and may invite applications within a period of twelve months from the commencement of this Act. The proviso to the said sub-clause further provides that in case no notification is issued within the period specified in the first proviso, the area shall be made available, subject to the provisions of sub-clause (5) for grant of prospecting licence under the provisions of clause 22.

Sub-clause (3) of this clause provides that applications for renewal of mineral concessions made under the Mines and Minerals (Development and Regulation) Act, 1957 and pending on the date of commencement of this Act shall be disposed off as applications for extension in accordance with the provisions of this Act.

Sub-clause (4) of this clause provides that a person who holds a reconnaissance permit prior to the commencement of this Act shall be entitled to continue to hold the permit to the exclusion of all others for a period of two years or till the validity of the permit whichever is earlier, and during such period no other reconnaissance or high-technology reconnaissance cum exploration licence applications shall be entertained for the area covered by the reconnaissance permit, and the permit holder shall be deemed to be the holder of a non-exclusive reconnaissance licence for the purpose of sub-clause (6) of clause 22.

Sub-clause (5) of this clause provides that no application for prospecting licence shall be entertained by the State Government for a period of two years from the date of commencement of this Act in respect of major minerals (except coal minerals and atomic minerals), other than such applications made in accordance with the provisions of sub-clause (7) of clause 22, unless the State Government, by notification, invites applications for

grant of prospecting licences. The proviso to the said sub-clause provides that the State Government may invite applications in different Districts of the State on different dates. The proviso to the said sub-clause further provides that the Central Government may extend the period specified in this sub-clause for a period not exceeding one year by notification for reasons of scientific mining or proper regulation of mineral development on a request from the State Government.

*Clause 138.*—This clause relates to the repeal and saving.

Sub-clause (1) of this clause provides that the Mines and Minerals (Development and Regulation) Act, 1957 is hereby repealed.

Sub-clause (2) of this clause provides that all rules made under the Mines and Minerals (Development and Regulation) Act, 1957, not inconsistent with the provisions of this Act, shall be deemed to have been made under this Act where such rules were made and shall continue in force unless and until they are superseded or amended by any rules made under this Act.

Sub-clause (3) of this clause provides that all acts done, proceedings taken or notifications or orders issued and sentences passed under the Mines and Minerals (Development and Regulation) Act, 1957, shall be valid and operative as if they had been done, taken, passed or issued in accordance with the provisions of this Act, and no suit or other legal proceeding shall be maintained or continued against any person whatsoever, on the ground that any such acts, proceedings or sentences were not done, taken or passed in accordance with the provisions of this Act.

Sub-clause (4) of this clause provides that notwithstanding such repeal, any act done or order passed under that Act shall be deemed to have been done or passed under this Act except to the extent that such act or order is inconsistent with the provisions of this Act.

Sub-clause (5) of this clause provides that the mention of particular matters in sub-clause (4) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal.

*Clause 139.*—This clause relates to the power to remove difficulties.

This clause empowers the Central Government to make, by order published in the Official Gazette, provisions for removal of difficulties in giving effect to the provisions of the proposed legislation. Such orders could be made only within two years from the commencement of the proposed legislation.

## FINANCIAL MEMORANDUM

Sub-clause (1) of clause 58 of the Bill empowers the Central Government to establish a National Authority to be known as the National Mining Regulatory Authority to exercise the powers conferred on, and to perform the functions assigned to, it under the Bill in relation to major minerals (other than coal minerals). Sub-clause (3) of clause 62 provides that the salary and other allowances payable to the Chairperson and other Members of the National Mining Regulatory Authority shall be such as may be prescribed by the Central Government. Sub-clause (4) of clause 67 of the Bill provides that the salaries and allowances payable to the officers and other employees of the National Mining Regulatory Authority shall be such as may be prescribed by the Central Government.

2. Clause 75 of the Bill empowers the Central Government to establish a Tribunal to be known as the National Mining Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under the Bill. Sub-clause (1) of clause 76 of the Bill provides that a National Mining Tribunal shall consist of a full-time Chairperson and not more than seven judicial members and seven expert members to be appointed by the Central Government. Sub-clause (3) of clause 79 of the Bill provides that the salary and other allowances payable to the Chairperson and other Members of the National Mining Tribunal shall be such as may be prescribed by the Central Government. Sub-clause (4) of clause 84 of the Bill provides that the salaries and allowances payable to the officers and other employees of the National Mining Tribunal shall be such as may be prescribed by the Central Government.

3. Sub-clause (1) of clause 50 of the Bill enables the Central Government to establish a fund to be called the National Mineral Fund for the purposes of the Bill. Sub-clause (1) of clause 44 of the Bill empowers the Central Government to levy and collect cess on major minerals. Sub-clause (2) of clause 50 of the Bill provides that the proceeds of the cess levied under sub-clause (1) of clause 44 shall first be credited to the Consolidated Fund of India, and the Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Mineral Fund from time to time, after deducting the expenses of collection, for being utilised for the purposes of making grants to the National Mining Regulatory Authority under the National Mining Tribunal.

4. Sub-clause (1) of clause 104 provides that the Central Government may, by notification, establish a National Drill Core Repository for preservation and archiving of drill cores generated during mineral exploration and a National Geophysical Data Repository for holding, authenticating and disseminating geophysical data for the purposes of the Bill. Sub-clause (2) of clause 104 provides that these Repositories shall be managed and maintained in such manner as may be prescribed by the Central Government.

5. Keeping in view the manpower requirements and the total financial implication in setting up the National Mineral Regulatory Authority and the National Mining Tribunal on a representative basis it is estimated that the recurring annual expenditure of the National Mining Regulatory Authority and the National Mining Tribunal shall be approximately in the range of Rs. 17.43 crore and the non-recurring capital investment is estimated to be Rs. 1.50 crore for the establishment of the National Mining Regulatory Authority and the National Mining Tribunal, which would be borne by the Central Government. It is estimated that the Central Government would obtain through the levy of cess on major minerals revenue of Rs. 77 crore. National Drill Core Repository and National Geophysical Data Repository would be set up entirely out of the budget allocation for the Geological Survey of India.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 131 of the Bill empowers the Central Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) enumerates the matter in respect of which such rules may be made. These matters shall include,—(a) the form and manner of application to be made to the State Governments along with application fee and earnest money under sub-clause (5) of clause 4; (b) the manner of grant of mining lease for atomic minerals by the State Government under sub-clause (9) of clause 4; (c) the manner of publication of the report of the reconnaissance or prospecting operations and the manner of intimation of the same to the State Government under sub-clause (10) of clause 4; (d) the manner in which a person is to be registered with Indian Bureau of Mines or the State Directorate or any other agency authorised by the Central Government under sub-clause (1) of clause 5; (e) identification of mineral or group of associated minerals for the purpose of granting of high-technology reconnaissance cum exploration licences under sub-clause (1) of clause 6; (f) the manner of surrender of area out of licence by the holder of a non-exclusive reconnaissance licence, high-technology reconnaissance cum exploration licence and prospecting licence under sub-clause (5) of clause 6; (g) procedure and condition for grant of mining lease for small deposits under sub-clause (6) of clause 6; (h) the manner of approval of mining plan for extension of mining lease under sub-clause (6) of clause 7; (i) the manner, terms and conditions in which competitive bidding and auction for coal minerals to take place under sub-clause (6) of clause 8; (j) the manner of making available the data relating to the grant, extension, termination and plan of operations in the official website under sub-section (8) of clause 8; (k) the manner of evaluation of bids under sub-clause (7) of clause 13; (l) the manner of inviting applications in grant of mineral concessions for coal minerals under sub-clause (9) of clause 13; (m) the procedure for notifying an area for inviting applications for major minerals and grant of mineral concessions under sub-clause (12) of clause 13; (n) the amount of fee to be charged by the State Governments for transfer of the minerals concession under sub-clause (6) of clause 17; (o) the manner of payment of remaining amount of bid to the State Government under clause (a) of sub-clause (3) of section 18; (p) the additional fee to be fixed by the Central Government under the proviso to clause (b) of sub-clause (3) of clause 18; (q) the other particulars for transfer of mining lease in clause (e) of sub-clause (4) of clause 18; (r) the fee to be charged for transfer of mining lease in case of a major mineral under sub-clause (9) of clause 18; (s) the manner of submission of reconnaissance plan under clause (b) of sub-clause (1) of clause 19; (t) the manner of providing data by the licence holder within such intervals under clause (c) of sub-clause (1) of clause 19; (u) the manner of submitting reports by the licence holder within such intervals under clause (f) of sub-clause (1) of clause 19; (v) the other conditions for grant of non-exclusive reconnaissance licence under clause (l) of sub-clause (1) of clause 19; (w) the general conditions relating to the non-exclusive licence under sub-clause (2) of clause 19; (x) the form and manner of application to be made to the State Governments along with application fee and earnest money under sub-clause (1) of clause 20; (y) the manner of acknowledging and registering of applications under sub-clause (2) of clause 20; (z) conditions for high-technology reconnaissance cum exploration licence and prospecting licence to be fulfilled by the licence holder under sub-clause (1) of clause 21; (za) the form and manner of application to be made to the State Governments for grant of high technology reconnaissance cum exploration licence and prospecting licence along with application fee and earnest money under sub-clause (1) of clause 22; (zb) the manner of acknowledging and registering of applications under sub-clause (2) of clause 22; (zc) the manner of submission of report relating to the prospecting operations by the holder of high-technology reconnaissance and exploration licence and a prospecting licence to the State Government under sub-clause (2) of clause 23; (zd) the particulars to be furnished by the lessee relating to mining lease under clause (f) of sub-clause (1) of clause 24; (ze) the manner and period of submission of report relating to the data relating to mining lease under sub-clause (1) of clause 24; (zf) the manner of restoration of a mining area under item (l) of sub-clause (1) of clause 24; (zg) the amount of security deposits to be paid by the lessee under clause (n) of sub-clause (1) of clause 24; (zh) the manner of setting up of a grievance redressal mechanism by the lessee under clause (o)

of sub-clause (1) of clause 24; (zi) conditions for mining to be fulfilled by the lessee under clause (p) of sub-clause (1) of clause 24; (zj) the manner of acknowledging and registering of applications under sub-clause (2) of clause 25; (zk) general conditions to be fulfilled for grant of mining lease under sub-clause (3) of clause 25; (zl) the manner of preparation of a mining plan under sub-clause (1) of clause 26; (zm) empanelment and accreditation of qualified persons for preparation of mining plan under sub-clauses (4) and (5) of clause 26; (zn) technical and management capability of the State Directorate for grant of approval for major minerals under sub-clause (6) of clause 26; (zo) the manner of extension of mining lease under sub-clause (1) of clause 28; (zp) the procedure for condoning delay and revival or commencement or re-commencement of mining operations under sub-clause (4) of clause 29; (zq) conditions for determination of mining lease under sub-clause (1) of clause 30; (zr) the manner of providing compensation to the lessee under sub-clause (2) of clause 31; (zs) manner of preparation of progressive mine closure plan and final mine closure plan under clause 32; (zt) the manner of determination of costs of mine closure under sub-clause (4) of clause 33; (zu) the method of calculation for payment to be made by the lessee for coal minerals under the proviso to sub-clause (2) of clause 43; (zv) the manner of registration of person or company or firm or association using or trading in or exporting or stocking mineral with the Indian Bureau of Mines under sub-clause (5) of clause 44; (zw) sustainable development framework under sub-clause (6) of clause 46; (zx) matters in which State Government may issue directions under clause 47; (zy) the manner and availability of reports to such persons and at such costs under sub-clause (7) of clause 48; (zz) maintenance of accounts in respect of National Mineral Fund under sub-clause (1) of clause 52; (zza) the other expenditure utilised for the District Mineral Foundation under sub-clause (6) of clause 56; (zzb) the manner of approving such other expenditure available with the District Mineral Foundation under clause (c) of sub-clause (2) of clause 57; (zzc) the salary and allowances payable to and other terms and conditions of service of the Chairperson and Members of the National Authority under sub-clause (3) of clause 62; (zzd) the procedure for conducting any inquiry under sub-clause (2) of clause 64; (zze) the manner of appointment of the officers and other employees of the National Authority under sub-clause (2) of clause 67; (zzf) the salary and other allowances payable to, and the other terms and conditions of service of, the officers and other employees of the National Authority under sub-clause (4) of clause 67; (zzg) qualifications for appointment of Investigation Officer under sub-clause (4) of clause 69; (zzh) the salary and other allowances payable to and other terms and conditions of service of the Chairperson and other members of the National Mining Tribunal under sub-clause (3) of clause 79; (zzi) the manner of removal of Chairperson or any Member of the National Mining Tribunal under sub-clause (2) of clause 81; (zzj) the manner of recruitment, salaries, allowances and conditions of service of officers and other employees of National Mining Tribunal under clause 84; (zzk) the other powers of National Mining Tribunal under clause 85; (zzi) the form and manner of application to National Mining Tribunal along with application fee under clause 86; (zzm) the manner of managing the National Repositories and the data under sub-clause (2) of clause 104; (zzn) the rate of compounding fee for credit to the Government under sub-clause (1) of clause 117; and (zzo) any other matter which is to be, or may be prescribed under this Act.

2. Clause 132 of the Bill empowers the State Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) enumerates the matter in respect of which such rules may be made. These matters shall include,—(a) the manner of publication of data that would be available to the general public under the proviso to sub-clause (10) of section 4; (b) the manner of making available the data on mineral concessions to the public under sub-clause (8) of clause 8; (c) the procedure for notification for grant of mineral concession of minor mineral under sub-clause (13) of clause 13; (d) the manner in which a notification may be issued for inviting competitive financial bids under sub-clause (2) of clause 18; (e) the fee to be charged for the transfer of the mining lease in case of a minor mineral under sub-clause (7) of clause 18; (f) the rate and in the manner of levy of surface rent and water rate under clause (e) of sub-clause (1) of clause 24; (g) the manner of payment of compensation to the owner of surface, usufruct and traditional

rights under sub-clause (1) of clause 43; (h) the amount to be paid by the holder of the District Mineral Foundation in case of minor minerals under sub-clause (2) of clause 43; (i) the manner of identification of the persons or families affected by mining related operations, determination of monetary benefit to each person or family, and monitoring mechanism under sub-clause (10) of clause 43; (j) the manner of administration of State Mineral Fund under sub-clause (3) of clause 53; (k) the manner of audit of State Mineral Fund under sub-clause (1) of clause 55; (l) the manner of constitution of District Mineral Foundation under sub-clause (1) of clause 56; (m) the manner of consultation with affected persons or families under sub-clause (1) of clause 57; (n) the manner of preparation of annual statement of accounts by District Mineral Foundation and audit under sub-clause (6) of clause 57; (o) the manner of composition and procedures of State Authority under clause 71; (p) the terms of office, salaries and allowances of the Chairperson and members of State Mining Tribunal under sub-clause (3) of clause (93); (q) the manner of removal of Chairperson or any Member of the State Mining Tribunal under sub-clause (2) of clause 95; (r) the manner of recruitment, salaries, allowances and conditions of services of officers and other employees of State Mining Tribunal under sub-clause (2) of clause 98; (s) the other powers of the State Mining Tribunal under clause 99; (t) the form and manner of application to State Mining Tribunal along with application fee under clause 100; (u) the other functions of State Co-ordination-cum-Empowered Committee under clause 103; and (v) any other matter which is to be, or may be prescribed under this Act.

3. The rules made by the Central Government and notifications issued by it under sub-section (3) of section 41, sub-section (3) of section 42 and section 125 under the proposed legislation shall be required to be laid before the Parliament.

4. The rules made by the State Government and notification issued by it under sub-section (4) of section 41 and sub-section (4) of section 42 under the proposed legislation shall be required to be laid before the State Legislatures.

5. The matters in respect of which rules may be made and notifications issued are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. 120 OF 2011

A Bill further to amend the Arms Act, 1959.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Arms (Amendment) Act, 2011.

(2) It shall be deemed to have come into force on the 27th day of May, 1988.

2. In the Arms Act, 1959, in section 27, in sub-section (3), for the words “shall be punishable with death”, the words “shall be punishable with death or imprisonment for life and shall also be liable to fine” shall be substituted.

Short title  
and  
commencement.

Amendment  
of section 27  
of Act 54 of  
1959.

## STATEMENT OF OBJECTS AND REASONS

The Arms Act, 1959 provides for the law relating to arms and ammunition.

2. Existing provisions contained in section 7 of the Arms Act, 1959, *inter alia*, prohibits acquisition or possession, or of manufacture or sale, of prohibited arms or prohibited ammunition unless one has been specially authorised by the Central Government in this behalf. Sub-section (3) of section 27 of the Arms Act, 1959 provides that whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of aforesaid section 7 and such use or act results in the death of any other person, shall be punishable with death. The provisions contained in sub-section (3) of aforesaid section 27 of the Arms Act, 1959 provides imposition of mandatory sentence of death.

3. The constitutional validity of sub-section (3) of aforesaid section 27 of the Arms Act, 1959 has been challenged before the Hon'ble Supreme Court in the State of Punjab vs. Dalbir Singh (Criminal Appeal No. 117 of 2006) and is pending before the Hon'ble Supreme Court. Earlier, the Hon'ble Supreme Court in Mithu vs. State of Punjab (1983/2 Supreme Court Cases 277) while adjudicating the constitutional validity of section 303 of the Indian Penal Code (which provided mandatory punishment of death to a person who being under sentence of imprisonment for life commits murder) held that imposition of mandatory sentence of death on commission of murder while undergoing life imprisonment in jail or outside jail when on parole, without giving any scope for application of judicial discretion considering facts and circumstances of each case, was, harsh, oppressive and unjust.

4. In view of the foregoing paragraph, it is proposed to amend sub-section (3) of aforesaid section 27 of the Arms Act, 1959 to provide that whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of section 7 and such use or act results in the death of any other person, shall be punishable with death or imprisonment for life and shall also be liable to fine instead of mandatory sentence of death only.

5. The Hon'ble Supreme Court in the State through CBI, Delhi vs. Gian Singh (1999/9 Supreme Court Cases 312) held that it is a fundamental right of every person that he should not be subjected to greater penalty than what the law prescribes; and no *ex post facto* legislation is permissible for escalating the severity of the punishment. But if any subsequent legislation would downgrade the harshness of the sentence for the same offence, it would be salutary principle for administration of criminal justice to suggest that the said legislative benevolence can be extended to the accused who awaits judicial verdict regarding sentence. It is further proposed to give retrospective effect to the amendment proposed in the preceding paragraph with effect from the 27th May, 1988 so as to cover the pending Criminal Appeal No. 117 of 2006 referred to in paragraph 3 above.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;  
The 17th November, 2011.

P. CHIDAMBARAM.



## BILL NO. 122 OF 2011

A Bill further to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2011.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

## CHAPTER II

AMENDMENTS TO THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND  
ENFORCEMENT OF SECURITY INTEREST ACT, 2002Amendment  
of section 2.

2. In section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter in this Chapter referred to as the principal Act), in clause (c), after sub-clause (iv), the following sub-clause shall be inserted, namely:—

“(iva) a multi-State co-operative bank; or”.

Amendment  
of section 9.

3. In section 9 of the principal Act, after clause (f), the following clause shall be inserted, namely:—

“(g) to convert any portion of debt into shares of a borrower company:

Provided that conversion of any part of debt into shares of a borrower company shall be deemed always to have been valid, as if the provisions of this clause were in force at all material times.”.

Amendment  
of section 13.

4. In section 13 of the principal Act,—

(a) in sub-section (3A), for the words “within one week”, the words “within fifteen days” shall be substituted;

(b) after sub-section (5), the following sub-sections shall be inserted, namely:—

“(5A) Where the sale of an immovable property, for which a reserve price has been specified, has been postponed for want of a bid of an amount not less than such reserve price, it shall be lawful for any officer of the secured creditor, if so authorised by the secured creditor in this behalf, to bid for the immovable property on behalf of the secured creditor at any subsequent sale.

(5B) Where the secured creditor, referred to in sub-section (5A), is declared to be the purchaser of the immovable property at any subsequent sale, the amount of the purchase price shall be adjusted towards the amount of the claim of the secured creditor for which the auction of enforcement of security interest is taken by the secured creditor, under sub-section (4) of section 13.

(5C) The provisions of section 9 of the Banking Regulation Act, 1949 shall, as far as may be, apply to the immovable property acquired by secured creditor under sub-section (5A).”.

Amendment  
of section 14.

5. In section 14 of the principal Act,—

(a) in sub-section (1), the following provisos shall be inserted, namely:—

“Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorised officer of the secured creditor, declaring that—

(i) the aggregate amount of financial assistance granted and the total claim of the Bank as on the date of filing the application;

(ii) the borrower has created security interest over various properties and that the Bank or Financial Institution is holding a valid and subsisting security interest over such properties and the claim of the Bank or Financial Institution is within the limitation period;

(iii) the borrower has created security interest over various properties giving the details of properties referred to in sub-clause (ii) above;

(iv) the borrower has committed default in repayment of the financial assistance granted aggregating the specified amount;

(v) consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a non-performing asset;

(vi) affirming that the period of sixty days notice as required by the provisions of sub-section (2) of section 13, demanding payment of the defaulted financial assistance has been served on the borrower;

(vii) the objection or representation in reply to the notice received from the borrower has been considered by the secured creditor and reasons for non-acceptance of such objection or representation had been communicated to the borrower;

(viii) the borrower has not made any repayment of the financial assistance in spite of the above notice and the Authorised Officer is, therefore, entitled to take possession of the secured assets under the provisions of sub-section (4) of section 13 read with section 14 of the principal Act;

(ix) that the provisions of this Act and the rules made thereunder had been complied with:

Provided further that on receipt of the affidavit from the Authorised Officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets:

Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief Metropolitan Magistrate, as the case may be, on the date of commencement of this Act.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The District Magistrate or the Chief Metropolitan Magistrate may authorise any officer subordinate to him,—

(i) to take possession of such assets and documents relating thereto; and

(ii) to forward such assets and documents to the secured creditor.”;

(c) in sub-section (3), after the words “the District Magistrate”, the words “any officer authorised by the Chief Metropolitan Magistrate or District Magistrate” shall be inserted.

6. After section 18B of the principal Act, the following section shall be inserted, namely:—

“18C. (1) Where an application or an appeal is expected to be made or has been made under sub-section (1) of section 17 or section 17A or sub-section (1) of section 18 or section 18B, the secured creditor or any person claiming a right to appear before the Tribunal or the Court of District Judge or the Appellate Tribunal or the High Court, as the case may be, on the hearing of such application or appeal, may lodge a caveat in respect thereof.

(2) Where a caveat has been lodged under sub-section (1),—

(a) the secured creditor by whom the caveat has been lodged (hereafter in this section referred to as the caveator) shall serve notice of the caveat by

Insertion of  
new section  
18C.

Right to lodge  
a caveat.

registered post, acknowledgement due, on the person by whom the application has been or is expected to be made under sub-section (1);

(b) any person by whom the caveat has been lodged (hereafter in this section referred to as the caveator) shall serve notice of the caveat by registered post, acknowledgement due, on the person by whom the application has been or is expected to be made under sub-section (1).

(3) Where after a caveat has been lodged under sub-section (1), any application or appeal is filed before the Tribunal or the court of District Judge or the Appellate Tribunal or the High Court, as the case may be, the Tribunal or the District Judge or the Appellate Tribunal or the High Court, as the case may be, shall serve a notice of application or appeal filed by the applicant or the appellant on the caveator.

(4) Where a notice of any caveat has been served on the applicant or the Appellant, he shall periodically furnish the caveator with a copy of the application or the appeal made by him and also with copies of any paper or document which has been or may be filed by him in support of the application or the appeal.

(5) Where a caveat has been lodged under sub-section (1), such caveat shall not remain in force after the expiry of the period of ninety days from the date on which it was lodged unless the application or appeal referred to in sub-section (1) has been made before the expiry of the said period.”

Amendment  
of section 23.

7. In section 23 of the principal Act, after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the Central Government may, by notification, require registration of all transactions of securitisation, or asset reconstruction or creation of security interest which are subsisting on or before the date of establishment of the Central Registry under sub-section (1) of section 20 within such period and on payment of such fees as may be prescribed.”

Insertion of  
new section  
26A.

8. After section 26 of the principal Act, the following section shall be inserted, namely:—

Rectification  
by Central  
Government  
in matters of  
registration,  
modification  
and  
satisfaction,  
etc.

“26A. (1) The Central Government, on being satisfied—

(a) that the omission to file with the Registrar the particulars of any transaction of securitisation, asset reconstruction or security interest or modification or satisfaction of such transaction or; the omission or mis-statement of any particular with respect to any such transaction or modification or with respect to any satisfaction or other entry made in pursuance of section 23 or section 24 or section 25 of the principal Act was accidental or due to inadvertence or some other sufficient cause or it is not of a nature to prejudice the position of creditors; or

(b) that on other grounds, it is just and equitable to grant relief,

may, on the application of a secured creditor or securitisation company or reconstruction company or any other person interested on such terms and conditions as it may seem to the Central Government just and expedient, direct that the time for filing of the particulars of the transaction for registration or modification or satisfaction shall be extended or, as the case may require, the omission or mis-statement shall be rectified.

(2) Where the Central Government extends the time for the registration of transaction of security interest or securitisation or asset reconstruction or modification or satisfaction thereof, the order shall not prejudice any rights acquired in respect of the property concerned or financial asset before the transaction is actually registered.”

9. For section 30 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 30.

“30. (1) No court shall take cognizance of any offence punishable under section 27 in relation to non-compliance with the provisions of section 23, section 24 or section 25 or under section 28 or section 29 or any other provisions of the Act, except upon a complaint in writing made by an officer of the Central Registry or an officer of the Reserve Bank, generally or specially authorised in writing in this behalf by the Central Registrar or, as the case may be, the Reserve Bank.

Cognizance of offences.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.”

10. After section 31 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 31A.

“31A. (1) The Central Government may, by notification in the public interest, direct that any of the provisions of this Act,—

Power to exempt a class or classes of banks or financial institutions.

(a) shall not apply to such class or classes of banks or financial institutions; or

(b) shall apply to the class or classes of banks or financial institutions with such exceptions, modifications and adaptations, as may be specified in the notification.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.”

### CHAPTER III

#### AMENDMENTS TO THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993

51 of 1993.

11. In the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, (hereafter in this Chapter referred to as the principal Act), in section 2, in clause (d), after sub-clause (v), the following sub-clause shall be inserted, namely:—

Amendment of section 2.

“(vi) a multi-State co-operative bank;”.

12. In section 18 of the principal Act, the following proviso shall be inserted, namely:—

Amendment of section 18.

“Provided that any proceedings in relation to the recovery of debts due to any multi-State co-operative bank pending before the date of commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2011 under the Multi-State Co-operative Societies Act, 2002 shall be continued and nothing contained in this section shall, after such commencement, apply to such proceedings.”.

39 of 2002.

13. In section 19 of the principal Act,—

Amendment of section 19.

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Every bank being, multi-State co-operative bank referred to in sub-clause (vi) of clause (d) of section 2, may, at its option, opt to initiate proceedings under the Multi-State Co-operative Societies Act, 2002 to recover debts, whether

39 of 2002.

due before or after the date of commencement of the Enforcement of the Security Interest and Recovery of Debts Laws (Amendment) Act, 2011 from any person instead of making an application under this Chapter.

(1B) In case, a bank being, multi-State co-operative bank referred to in sub-clause (vi) of clause (d) of section 2 has filed an application under this Chapter and subsequently opts to withdraw the application for the purpose of initiating proceeding under the Multi-State Co-operative Societies Act, 2002 to recover debts, it may do so with the permission of the Tribunal and every such application seeking permission from the Tribunal to withdraw the application made under sub-section (1A) shall be dealt with by it as expeditiously as possible and disposed of within thirty days from the date of such application:

39 of 2002.

Provided that in case the Tribunal refuses to grant permission for withdrawal of the application filed under this sub-section, it shall pass such orders after recording the reasons therefor.”;

(b) after sub-section (20), the following sub-section shall be inserted, namely:—

“(20A) Where it is proved to the satisfaction of the Tribunal that the claim of the applicant has been adjusted wholly or in part by any lawful agreement or compromise in writing and signed by the parties or where the defendant has repaid or agreed to repay the claim of the applicant, the Tribunal shall pass orders recording such agreement, compromise or satisfaction of the claim.”.

Amendment  
of section 31.

14. In section 31 of the principal Act, after the proviso, the following proviso shall be inserted, namely:—

“Provided further that any recovery proceedings in relation to the recovery of debts due to any multi-State co-operative bank pending before the date of commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2011 under the Multi-State Co-operative Societies Act, 2002, shall be continued and nothing contained in this section shall apply to such proceedings.”.

39 of 2002.

## STATEMENT OF OBJECTS AND REASONS

The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was enacted with a view to regulate securitisation and reconstruction of financial assets and enforcement of security interest and for matters connected therewith or incidental thereto. The aforesaid Act enables the banks and financial institutions to realise long-term assets, manage problems of liquidity, asset liability mis-match and improve recovery by exercising powers to take possession of securities, sell them and reduce non-performing assets by adopting measures for recovery or reconstruction. The said Act further provides for setting up of asset reconstruction companies which are empowered to take possession of secured assets of the borrower including the right to transfer by way of lease, assignment or sale and realise the secured assets and take over the management of the business of the borrower.

2. At present, under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (a) the reconstruction companies or securitisation companies do not have the facility to convert their debt into equity in cases of business reconstruction or rehabilitation or revival as required under section 9 of the said Act; (b) the banks and financial institutions find it difficult to meet the requirement of considering the representations from borrowers and communicate their response within a period of seven days as required under section 13 of the said Act; (c) even though the banks, as secured creditors, are empowered to sell the securities to realise the defaulted loans, they are not empowered to accept the property in full or partial satisfaction of the claim against the defaulted borrower, if no bidder comes to bid or banks are unable to find a buyer for such assets as per the provisions of section 13 of the said Act; (d) 'there is no provision enabling the banks or persons to file a caveat petition against the application filed by the defaulted borrower before the Debts Recovery Tribunal under section 18 of the said Act.

3. It is proposed to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, *inter alia*, provides for the following, namely:—

(a) provide for conversion of any part of debt into shares of a borrower company and such conversion shall be deemed always to have been valid as if the provisions of said conversion were in force at all material times;

(b) include the multi-State co-operative banks in the definition of 'bank' under clause (c) of section 2 of the said Act;

(c) increase the period of response to be sent by the banks or financial institutions to the representation of the borrower from seven days to fifteen days;

(d) empower the banks or financial institutions to accept the immovable property in full or partial satisfaction of the claim of the bank against the defaulting borrower;

(e) enable the banks or any person to file a caveat so that before granting any stay, the bank or such person is heard by the Debts Recovery Tribunal;

(f) provide for registration of transactions of securitisation, reconstruction or creation of security interest in the Central Registry, which are subsisting on or before the establishment of Central Registry and also to give powers to the Central Government to extend time for filing of such transaction with the Central Registry.

4. The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 was enacted with a view to provide for the establishment of Debts Recovery Tribunals for expeditious adjudication and recovery of debts due to banks and financial institutions. To ensure expeditious adjudication and recovery of dues of banks and financial institutions, remove legal anomalies and strengthen the Recovery Tribunals, the said Act was amended in the years 1995, 2000 and 2004. The measures of recovery through the Debts Recovery Tribunal are not available to multi-State co-operative banks. In order to provide an additional and effective recovery mechanism to multi-State co-operative banks, it is considered necessary

to give an option to the multi-State co-operative banks either to initiate proceedings for recovery of its debts under the Multi-State Co-operative Societies Act, 2002 or the Debts Recovery Tribunal under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

5. It is also proposed to amend the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, *inter alia*, provides for the following, namely:—

(a) to include the multi-State co-operative banks in the definition of 'bank' under clause (d) of section 2 of the said Act;

(b) to permit the multi State co-operative banks, with respect to debts due before or after the commencement of the proposed legislation, to opt either to initiate proceedings under the Multi-State Co-operative Societies Act, 2002 or to initiate the proceedings before the Debts Recovery Tribunal;

(c) to enable the banks and financial institutions to enter into settlement or compromise with the borrower and also to empower the Debts Recovery Tribunal to pass an order acknowledging such settlement or compromise;

(d) to provide that the recovery proceedings pending before the commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2011 in relation to recovery of debts due to any multi-State co-operative bank shall be continued in the same manner as the proposed amendments had not come into force.

6. The Bill seeks to achieve the above objects.

PRANAB MUKHERJEE.

NEW DELHI;  
The 30th November, 2011.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill provides for amendment of section 23 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 empowering the Central Government to require, by notification, registration of all transactions of securitisation or asset reconstruction or creation of security interest which are subsisting on or before the 31st March, 2011 namely the date of establishment of Central Registry.

2. Clause 10 of the Bill provides for insertion of a new section 31A to the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 which empowers the Central Government, by notification, in the public interest, to direct that any of the provisions of the Act shall not apply to such class or classes of banks or financial institutions or shall apply to the class or classes of banks or financial institutions with such exceptions, modifications and adaptations.

3. The matters in respect of which the notification may be issued by the Central Government is a matter of procedural and administrative detail and it is not practicable to provide for them under the Bill itself. The delegation of the legislative power is, therefore, of a normal character.



**BILL NO. 125 OF 2011**

**A Bill to make special provisions for the National Capital Territory of Delhi for a further period up to the 31st day of December, 2014 and for matters connected therewith or incidental thereto.**

**WHEREAS** there has been phenomenal increase in the population of the National Capital Territory of Delhi owing to migration and other factors resulting in tremendous pressure on land and infrastructure leading to encroachment or unauthorised developments which are not in consonance with the concept of planned development as provided in the Master Plan for Delhi, 2001 and the relevant Acts and building bye-laws made thereunder;

**AND WHEREAS** the Master Plan for Delhi, 2001 was extensively modified and notified by the Central Government on the 7th day of February, 2007 with the perspective for the year 2021 keeping in view the emerging new dimensions in urban development *vis-a-vis* the social, financial and other ground realities;

**AND WHEREAS** the Master Plan for Delhi with the perspective for the year 2021 specifically provides for strategies for housing for urban poor as well as to deal with the informal sector;

AND WHEREAS a strategy and a scheme has been prepared by the local authorities in the National Capital Territory of Delhi for regulation of urban street vendors in accordance with the National Policy for Urban Street Vendors and the Master Plan for Delhi, 2021, and is being implemented;

AND WHEREAS based on the policy finalised by the Central Government regarding regularisation of unauthorised colonies, village *abadi* area and their extension, the guidelines and regulations for this purpose have been issued;

AND WHEREAS based on the policy finalised by the Central Government regarding regularisation of unauthorised colonies, village *abadi* area and their extensions, the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village *Abadis*, have been made by the Delhi Development Authority under sub-section (1) of section 57 of the Delhi Development Act, 1957 notified in the Gazette of India *vide* S.O. 97(E), dated the 17th January, 2011; 61 of 1957.

AND WHEREAS in pursuance of the guidelines and regulations necessary steps are being taken for the regularisation of unauthorised colonies which, *inter alia*, involve scrutiny of layout plans, assessment of built-up percentage existed as on the 31st day of March, 2002, identification of mixed use of streets, approval of layout plans, fixation of boundaries, change in land use and identification of colonies not eligible for regularisation;

AND WHEREAS the Government of National Capital Territory of Delhi has received one hundred forty redrafted layout plans and is in process of fixing the boundary on these layout plans and the complete process of redrafting or finalisation of layout plans is likely to take considerable time to regularise all the unauthorised colonies;

AND WHEREAS more time is required for proper implementation of the scheme regarding hawkers and urban street vendors and for the regularisation of unauthorised colonies, village *abadi* area and their extensions and special areas;

AND WHEREAS the Government of National Capital Territory of Delhi is actively considering enactment of law with regard to hawkers and urban street vendors, which is likely to take considerable time due to the legal procedure to be followed in this regard;

AND WHEREAS the revised policy for proper arrangements for relocation and rehabilitation of slum dwellers and *jhuggi-jhopri* clusters in the National Capital Territory of Delhi has been formulated and accordingly, the Delhi Urban Shelter Improvement Board Act, 2010 has been enacted by the Legislature of the National Capital Territory of Delhi and notified with effect from the 1st July, 2010 to provide for implementation of schemes for improvement of slums and *jhuggi-jhopri* clusters with a view to bring improvement in environment and living conditions, and to prepare housing scheme for such persons; Delhi Act 7 of 2010.

AND WHEREAS the Delhi Urban Shelter Improvement Board has identified about six hundred and eighty-five *jhuggi-jhopri* clusters in the National Capital Territory of Delhi and relocation thereof is likely to take considerable time;

AND WHEREAS the draft policy regarding farm houses is being prepared by the Delhi Development Authority and its finalisation is likely to take about two years;

AND WHEREAS pursuant to the Master Plan for Delhi, 2021, the Zonal Development Plans in respect of various Zones have been notified which provides for regularisation of schools, dispensaries, religious institutions and cultural institutions established on or before the 1st January, 2006 in non-conforming areas;

AND WHEREAS the policy with respect to storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land and guidelines for redevelopment of existing godown clusters in non-conforming areas (including those for a storage of non-agricultural goods) required to cater to the needs of the people of the National Capital Territory of Delhi are under consideration of the Central Government in consultation with the Delhi Development Authority;

AND WHEREAS with respect to special areas (being the areas consisting of walled city, walled city extension and area known as Karol Bagh and as such other areas as may be designated as special area) referred to in clause (vi) of regulation 2 of the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village *Abadis*, 2010 notified in the Gazette of India *vide* S.O. 97(E), dated the 17th January, 2011, is being taken for formulation of redevelopment plan and schemes by concerned local authority which is likely to take considerable time;

AND WHEREAS rule 12 of the Delhi Development (Master Plan and Zonal Development Plan) Rules, 1959 provides for amendment of whole or any part of the Master Plan, if necessary, at the expiry of every five years and accordingly in pursuance of the aforesaid rule 12, the process of quinquennial revision of the provisions of the Master Plan notified on the 7th February, 2007, is being undertaken for such modifications and updating that have emerged based on ground realities which is likely to take some time for finalisation;

AND WHEREAS in view of the foregoing paragraphs, it is expedient and in public interest that no hardship be caused (whether by way of sealing or demolition of the structures or otherwise), to the public until the revision of Master Plan as stated in the preceding paragraph is undertaken to facilitate the smooth review of the Master Plan;

43 of 2007. AND WHEREAS the National Capital Territory of Delhi Laws (Special Provisions) Act, 2007 was enacted on the 5th day of December, 2007 to make special provisions for the areas of National Capital Territory of Delhi for a period of up to the 31st day of December, 2008 which ceased to operate after the 31st December, 2008;

24 of 2009. AND WHEREAS the National Capital Territory of Delhi Laws (Special Provisions) Act, 2009 was enacted in continuation of the aforesaid Act for a period up to the 31st day of December, 2009 to make special provisions for the areas of the National Capital Territory of Delhi and that Act ceased to operate after the 31st day of December, 2009;

40 of 2009. AND WHEREAS the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2009 was enacted in continuation of the aforesaid Act for a period up to the 31st day of December, 2010 to make special provisions for the areas of National Capital Territory of Delhi and that Act ceased to operate after the 31st day of December, 2010;

5 of 2011. AND WHEREAS the National Capital Territory of Delhi Laws (Special Provisions) Act, 2011 has been enacted to give continued effect to provisions of the enactment specified in the preceding paragraph for a period up to the 31st day of December, 2011 and to make special provisions for the areas of the National Capital Territory of Delhi and that Act, shall cease to operate after the 31st day of December, 2011;

AND WHEREAS it is expedient to have a law in terms of the Master Plan for Delhi, 2021, in continuation of the said Acts for a period up to the 31st day of December, 2014 to provide for relief and to minimise avoidable hardships and irreparable loss to the people of the National Capital Territory of Delhi against any punitive action by any agency in respect of the persons covered by the policies referred to above.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011.

Short title,  
extent,  
commencement  
and duration.

(2) It extends to the National Capital Territory of Delhi.

(3) It shall come into force on the 1st day of January, 2012.

10 of 1897. (4) It shall cease to have effect on the 31st day of December, 2014, except as respects things done or omitted to be done before such cesser, and upon such cesser section 6 of the General Clauses Act, 1897, shall apply as if this Act had then been repealed by a Central Act.

## Definitions.

## 2. (1) In this Act, unless the context otherwise requires,—

(a) “building bye-laws” means bye-laws made under section 481 of the Delhi Municipal Corporation Act, 1957 or the bye-laws made under section 188, sub-section (3) of section 189 and sub-section (1) of section 190 of the Punjab Municipal Act, 1911, as in force in New Delhi or the regulations made under sub-section (1) of section 57 of the Delhi Development Act, 1957, relating to buildings; 66 of 1957. Punjab Act 3 of 1911. 61 of 1957.

(b) “Delhi” means the entire area of the National Capital Territory of Delhi except the Delhi Cantonment as defined in clause (11) of section 2 of the Delhi Municipal Corporation Act, 1957; 66 of 1957.

(c) “encroachment” means unauthorised occupation of Government land or public land other than streets, lanes, footpath and parks, by way of putting temporary, semi-permanent or permanent structure for residential use or commercial use or any other use;

(d) “local authority” means the Delhi Municipal Corporation established under the Delhi Municipal Corporation Act, 1957, or the New Delhi Municipal Council established under the New Delhi Municipal Council Act, 1994 or the Delhi Development Authority established under the Delhi Development Act, 1957, legally entitled to exercise control in respect of the areas under their respective jurisdiction; 66 of 1957. 44 of 1994. 61 of 1957.

(e) “Master Plan” means the Master Plan for Delhi with the perspective for the year 2021, notified *vide* notification number S.O.141(E), dated the 7th day of February, 2007 under the Delhi Development Act, 1957; 61 of 1957.

(f) “notification” means a notification published in the Official Gazette;

(g) “punitive action” means action taken by a local authority under the relevant law against unauthorised development and shall include demolition, sealing of premises and displacement of persons or their business establishment from their existing location, whether in pursuance of court orders or otherwise;

(h) “relevant law” means in case of—

(i) the Delhi Development Authority, the Delhi Development Act, 1957; 61 of 1957.

(ii) the Municipal Corporation of Delhi, the Delhi Municipal Corporation Act, 1957; and 66 of 1957.

(iii) the New Delhi Municipal Council, the New Delhi Municipal Council Act, 1994; 44 of 1994.

(i) “special area”, shall have the meaning assigned to it in clause (vi) of regulation 2 of the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village *Abadis*, 2010 notified in the Gazette of India *vide* S.O. 97(E), dated the 17th January, 2011;

(j) “unauthorised development” means use of land or use of building or construction of building or development of colonies carried out in contravention of the sanctioned plans or without obtaining the sanction of plans, or in contravention of the land use as permitted under the Master Plan or Zonal Plan or layout plan, as the case may be, and includes any encroachment.

(2) The words and expressions used but not defined herein shall have the meanings respectively assigned to them in the Delhi Development Act, 1957, the Delhi Municipal Corporation Act, 1957 and the New Delhi Municipal Council Act, 1994. 61 of 1957. 66 of 1957. 44 of 1994.

Enforcement  
to be kept in  
abeyance.

3. (1) Notwithstanding anything contained in any relevant law or any rules, regulations or bye-laws made thereunder, the Central Government shall before the expiry of this Act, take all possible measures to finalise norms, policy guidelines, feasible strategies and make orderly arrangements to deal with the problem of encroachment or unauthorised development in the

form of encroachment by slum dwellers and *Jhuggi-Jhopri* clusters, hawkers and urban street vendors, unauthorised colonies, village *abadi* area (including urban villages), and their extensions, existing farm houses involving construction beyond permissible building limits and schools, dispensaries, religious institutions, cultural institutions, storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land, as mentioned below:—

Delhi Act 7  
of 2010.

(a) orderly arrangements for relocation and rehabilitation of slum dwellers and *Jhuggi-Jhopri* clusters in Delhi in accordance with the provisions of the Delhi Urban Shelter Improvement Board Act, 2010 and the Master Plan for Delhi, 2021 to ensure its development in a sustainable, planned and humane manner;

(b) scheme and orderly arrangements for regulation of urban street vendors in consonance with the national policy for urban street vendors and hawkers as provided in the Master Plan for Delhi, 2021;

(c) orderly arrangements pursuant to guidelines and regulations for regularisation of unauthorised colonies, village *abadi* area (including urban villages) and their extensions, as existed on the 31st day of March, 2002, and where construction took place even beyond that date and up to the 8th day of February, 2007;

(d) policy regarding existing farm houses involving construction beyond permissible building limits;

(e) policy or plan for orderly arrangement regarding schools, dispensaries, religious institutions, cultural institutions, storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land and guidelines for redevelopment of existing godown clusters (including those for a storage of non-agricultural goods) required to cater to the needs of the people of the National Capital Territory of Delhi;

(f) orderly arrangements in respect of special areas in accordance with the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village *Abadis*, 2010 within overall ambit of Master Plan in force; and

(g) policy or plan for orderly arrangements in all other areas of the National Capital Territory of Delhi in consonance with the Master Plan on its review.

(2) Subject to the provisions contained in sub-section (1) and notwithstanding any judgment, decree or order of any court, *status quo*—

(i) as on the 1st day of January, 2006 in respect of encroachment or unauthorised development;

(ii) in respect of unauthorised colonies, village *abadi* area (including urban villages) and their extensions, which existed on the 31st day of March, 2002 and where construction took place even beyond that date and up to the 8th day of February, 2007, mentioned in sub-section (1);

(iii) in respect of special areas as per the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village *Abadis*, 2010; and

(iv) in respect of all other areas within the National Capital Territory of Delhi as on the 8th day of February, 2007,

shall be maintained.

*Explanation.*— For the purposes of this sub-section, it is hereby clarified that any development approved by the competent authority or the local authority under the relevant laws and the rules or regulations made thereunder, including repairs permissible under the building bye-laws in force, shall continue to remain permitted.

(3) All notices issued by any local authority for initiating action against encroachment or unauthorised development in respect of areas referred to in sub-section (1), shall be deemed to have been suspended and no punitive action shall be taken till the 31st day of December, 2014, if—

(a) it is constructed prior to the dates specified for different areas as enumerated in sub-section (2);

(b) it conforms to the safety standards as in force or such other safety requirements as may be notified by the Central Government; and

(c) it complies with the directions with respect to safety, if any, issued by the Central Government:

Provided that in case punitive action is required to be taken by any local authority, prior approval of the Administrator of the National Capital Territory of Delhi or the officer authorised by him in this behalf, shall be obtained by the authority or officer concerned.

(4) Notwithstanding any other provision contained in this Act, the Central Government may, at any time before the 31st day of December, 2014, withdraw the exemption by notification in respect of encroachment or unauthorised development mentioned in sub-section (2) or sub-section (3), as the case may be.

Provisions of this Act not to apply in certain cases.

4. During the period of operation of this Act, no relief shall be available under the provisions of section 3 in respect of the following encroachment or unauthorised development, namely:—

(a) encroachment on public land except in those cases which are covered under clauses (a), (b) and (c) of sub-section (1) of section 3;

(b) removal of slums and *Jhuggi-Jhopri* dwellers, hawkers and urban street vendors, unauthorised colonies or part thereof, village *abadi* area (including urban villages) and their extensions in accordance with the relevant policies approved by the Central Government for clearance of land required for specific public projects.

Power of Central Government to give directions.

5. The Central Government may, from time to time, issue such directions to the local authorities as it may deem fit, for giving effect to the provisions of this Act and it shall be the duty of the local authorities, to comply with such directions.

Validation of acts done or omitted to be done, etc., during 1st January, 2012 up to the date of enactment of this Act.

6. Notwithstanding any judgment, decree or order of any court, all things done, or, omitted to be done, and all action taken, or, not taken, during the period beginning on or after the 1st day of January, 2012 and ending immediately before the date of enactment of this Act, shall, in so far as they are in conformity with the provisions of this Act, be deemed to have been done, or, omitted to be done, or, taken, or, not taken, under these provisions as if such provisions were in force at the time such things were done or omitted to be done and action taken or not taken during the aforesaid period.

## STATEMENT OF OBJECTS AND REASONS

The Delhi Laws (Special Provisions) Act, 2006 was enacted to address several orders and directions passed by the Supreme Court and the High Court of Delhi in cases pending before them regarding contentious issues which were confronting the city of Delhi, namely, unauthorised constructions, commercial use of residential premises, encroachment on public land by slum dwellers and *Jhuggi-Jhompri* clusters, problems relating to urban street vendors, which were affecting the lives of millions of people.

2. The said Act, *inter alia*, required the Central Government with a time period of one year to take all possible steps to finalise norms, policy guidelines and feasible strategies to deal with the problems of certain forms of unauthorised development with regard to mixed land use not conforming to the Master Plan, construction beyond sanctioned plans, encroachment by slum and *Jhuggi-Jhompri* dwellers, hawkers and urban street vendors. It also provided for *status quo* as on the 1st day of January, 2006 to be maintained in respect of these categories of unauthorised development, subject to certain conditions notwithstanding any judgment, decree or order of any court. Similarly, it provided that all notices issued by the local bodies for initiating action against these categories of unauthorised developments shall be deemed to have been suspended and that no punitive action shall be taken during the said period of one year.

3. The Delhi Laws (Special Provisions) Act, 2006 remained effective for a period of one year and lapsed on the 18th May, 2007. In the intervening period, the Master Plan for Delhi 2021 was notified on 7th February, 2007, incorporating extensive amendments in respect of provisions governing mixed land use, and for construction beyond sanctioned plans, thus providing much needed relief in the case of unauthorised development with regard to mixed land use not conforming to the Master Plan and construction beyond sanctioned plans.

4. In view of the fact that the provisions of the aforesaid Act ceased to operate on and after the 19th May, 2007, and that some more time was needed for making policy guidelines and feasible strategies or schemes to deal with the problems of unauthorised development in certain categories, such as, slum and *Jhuggi-Jhompri* dwellers, urban street vendors and hawkers, farm houses, schools, dispensaries, religious institutions, cultural institutions built in rural areas on agricultural land, the National Capital Territory of Delhi Laws (Special Provisions) Ordinance, 2007 was promulgated on the 4th July, 2007.

5. The National Capital Territory of Delhi Laws (Special Provisions) Second Ordinance, 2007 was replaced by the National Capital Territory of Delhi Laws (Special Provisions) Act, 2007 on 5th December, 2007 and the provisions of that Act remained in force up to the 31st December, 2008.

6. Further, the National Capital Territory of Delhi Laws (Special Provisions) Act, 2009 was enacted on 16th March, 2009 to make special provisions for the areas of the National Capital Territory of Delhi for a further period up to the 31st day of December, 2009. Again the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2009 was enacted for a period up to the 31st day of December, 2010 to make special provisions for the areas of the National Capital Territory of Delhi and that Act ceased to operate after 31st December, 2010.

7. Subsequent to enactment of the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2009,—

(i) a strategy and scheme prepared by the local authorities in the National Capital Territory of Delhi for regulation of urban street vendors in accordance with the National Policy for Urban Street Vendors and the Master Plan for Delhi, 2021 is being implemented;

(ii) in pursuance of the guidelines and regulations for regularisation of unauthorised colonies, necessary steps are being taken which, *inter alia*, involve

scrutiny of layout plans, assessment of built-up percentage existed as on the 31st day of March, 2002, identification of mixed use streets, approval of layout plans, fixation of boundaries, change of land use and identification of colonies not eligible for regularisation;

(iii) the Delhi Urban Shelter Improvement Board, has been constituted under the Delhi Urban Shelter Improvement Board Act, 2010 for implementation of schemes for improvement of *jhuggi-jhompri* clusters and its redevelopment with a view to bring improvement in environment and living conditions and preparing housing schemes for *jhuggi-jhompri* dwellers;

(iv) the draft policy regarding farm houses is under consideration of Delhi Development Authority;

(v) pursuant to notification of Zonal Development Plans, steps for regularisation of certain institutions which are rendering cultural, religious (including spiritual, health care and educational services) have been initiated and the policy framework in respect of storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land is under consideration in Delhi Development Authority.

8. In view of above, since more time was needed for orderly implementation of the programmes and formulation of strategies, schemes, guidelines, policies and plans, etc., referred to in sub-paragraph (i) to (v) of paragraph 7, the National Capital Territory of Delhi Laws (Special Provisions) Act, 2011 was enacted for a period beginning from the 1st day of January, 2011 and ending on the 31st day of December, 2011 so as to give continued effect to the aforesaid programmes, strategies, schemes, guidelines, policies and plans, etc.

9. The Master Plan for Delhi, 2021 was notified on the 7th February, 2007 which provides for its review and revision every five years, to account for such modifications and corrections that emerge based on ground realities. For the first review of Master Plan for Delhi, 2021, has already commenced and is expected to lead to the necessary modifications in the existing guidelines for matters such as land use, notification of new commercial and industrial areas, regulations in influence zone along metro lines and industrial areas along with floor area ratio changes, etc. Besides this, the norms, policies and guidelines may also be needed to be appropriately modified to ensure their smooth implementation. The revised Master Plan for Delhi would not only cover unauthorised colonies, village *abadi* areas, etc., but the whole of the National Capital Territory of Delhi.

10. In the light of development referred to in foregoing paragraphs, further more time is needed to bring in orderly arrangements, keeping in view the current ground realities and the fast evolving nature of urbanisation in the National Capital Territory of Delhi. To complete the ongoing tasks relating to the existing Act and revision of the Master Plan for Delhi, 2021 and also to enable its application to the development of all the areas in the National Capital Territory of Delhi, a period of at least three years from the 1st January, 2012 is required.

11. It is, therefore, considered expedient to have a law in continuation of the aforesaid Act referred to in paragraph 8 for a period up to the 31st day of December, 2014,—

(a) to provide for relief and to minimise avoidable hardships and irreparable loss to the people of the National Capital Territory of Delhi against any punitive action by any agency in respect of the persons covered by the policies referred to above; and

(b) to complete the revision of the Master Plan and for facilitating its smooth implementation with certain new provisions which may be considered necessary and appropriate.



12. Accordingly, it is proposed to enact a law in continuation of the said Acts for a period beginning from the 1st day of January, 2012 and ending on the 31st day of December, 2014, to give effect to the aforesaid programmes, strategies, schemes, guidelines, policies and plans, etc.

The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 8th December, 2011.*

KAMAL NATH.

T.K. VISWANATHAN,  
*Secretary-General.*